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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS
vs. Indictment No.
KAREN READ 2282CR00117
* * * * *

Day 25 - Trial with Jury
Before the Honorable Beverly Cannone

APPEARANCES:

For The Commonwealth:
BY: Adam Lally
Laura McLaughlin
Assistants District Attorney

For Karen Read:
BY: Alan Jackson
David Yannetti
Elizabeth Little
Attorneys at Law

Norfolk Superior Courthouse
Dedham, Massachusetts
Monday, June 3, 2024

Paula M. Mills
Retired Certified Court Reporter
and Court Transcriptionist

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(By Mr. Yannetti)		25-53		
Maureen Hartnett				
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P R O C E E D I N G SJune 3, 2024

(Court in session at 9:04 a.m.)

(Defendant present. Jury present.)

THE CLERK: 22-117, Commonwealth versus Karen Read. Could I have counsel identify themselves for the record?

MR. LALLY: Adam Lally, for the Commonwealth. Good morning, Your Honor.

THE COURT: Good morning, Mr. Lally.

MS. MC LAUGHLIN: Good morning, Your Honor. Laura McLaughlin, for the Commonwealth.

THE COURT: Good morning, Ms. McLaughlin.

MR. JACKSON: Good morning, Your Honor. Alan Jackson, for Ms. Read.

THE COURT: Good morning, Mr. Jackson.

MS. LITTLE: Good morning, Your Honor. Elizabeth Little, also on behalf of Karen Read.

MR. YANNETTI: Good morning, Your Honor. David Yannetti, for Karen Read.

THE COURT: Good morning, Mr. Yannetti. Good morning, Ms. Read.

Good morning, jurors. So I have those three questions for you. Was everyone able to follow the instructions and refrain from discussing this case

1 with anyone since we left here last week?

2 Everyone said "yes" or nodded affirmatively.

3 Were you also able to follow the instructions
4 and refrain from doing any independent research or
5 investigation into this case?

6 Everyone said "yes" or nodded affirmatively.

7 Did anyone happen to see, hear or read
8 anything about this case since we were last in
9 court?

10 Everyone said "no" or shook their heads.

11 Now, jurors, before we start, I do want to
12 give you that instruction again on what is
13 evidence.

14 So in considering the testimony of any
15 witness, remember that the questions that are asked
16 are not evidence. Only the answers, which are
17 really the only part of the exchange between the
18 lawyers and the witnesses that are under oath, are
19 evidence.

20 So if a witness is asked, isn't it true that
21 after you learned that your uncle left you money in
22 his will you poisoned him, and the witness answers,
23 no, then, based solely on that question and answer,
24 there is no evidence that the witness has an uncle,
25 that the uncle had a will, that the uncle left the

1 witness money, that the witness knew that the uncle
2 left the witness money or that the witness poisoned
3 him. So keep that in mind for reference when
4 you're listening to testimony.

5 All right. Mr. Lally, who is your first
6 witness?

7 MR. LALLY: Your Honor, the Commonwealth would
8 call Lieutenant Kevin O'Hara to the stand.

9 THE COURT: Okay.

10 Whereupon,

11 KEVIN O'HARA

12 having been first duly sworn, was examined and
13 testified under oath as follows:

14 THE COURT: Anytime you're ready.

15 MR. LALLY: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. LALLY:

18 Q Good morning, sir.

19 A Good morning, sir.

20 Q Could you please state your name and spell
21 your last name for the jury?

22 A Kevin O'Hara, O-H-A-R-A.

23 Q And how are you employed, sir?

24 A I'm a lieutenant with the Massachusetts State
25 Police.

1 Q And how long in total have you been a member
2 of the state police?

3 A Just over 22 years.

4 Q And how long have you held the rank of
5 lieutenant?

6 A Four and a half years.

7 Q And what is your current assignment within the
8 Massachusetts State Police?

9 A I'm the team commander for the State Police
10 Special Emergency Response Team, which is also known as
11 SERT.

12 Q And the SERT team within the state police,
13 approximately how many members of that unit are there?

14 A There's 61 team members, four of which are
15 full time, including myself. The other 57 have other
16 primary duty assignments, and SERT is an additional
17 duty for them.

18 Q Now, generally speaking, what are sort of the
19 duties and responsibilities over what is it that the
20 SERT unit within the state police does?

21 A SERT is the primary search and rescue team for
22 the state police. We conduct lost/missing person
23 searches, evidence searches. We do security or crowd
24 control at large-scale events such as the Fourth of
25 July, the Boston Marathon, Gillette Stadium, dignitary

1 security.

2 Q And how long has it been -- have long have you
3 been assigned to that particular unit?

4 A Since 2014.

5 Q Now, were you working with that unit on
6 January 29th, 2022?

7 A Yes, I was, sir.

8 Q And, at some point in the afternoon on that
9 day, were you contacted by Lieutenant Brian Tully of
10 the state police?

11 A Yes. At 2:32 p.m., Lieutenant Tully gave me a
12 phone call.

13 Q Now, as far as Lieutenant Tully is concerned,
14 were you familiar with him or were you familiar with
15 what units he supervises?

16 A Yes. I know he's the supervisor for the
17 Norfolk County State Police Detective Unit.

18 Q Now, if you could, describe to the jury sort
19 of the process by which your particular unit is
20 activated. Is that an instantaneous thing or how does
21 that work?

22 A Normally, we'll receive a courtesy phone call,
23 which I received from Lieutenant Tully, seeing if we
24 were available, if we had members that could respond
25 today for an incident that he had ongoing. I told him

1 we would be available.

2 He then has to submit a request through his
3 chain of command, which is the division of
4 investigative services. I also have to submit a
5 request up my chain of command which is through field
6 services to get approval on my end. It has to be
7 approved by the special operations commander, which is
8 a major. And, depending upon the request, it may even
9 go above his level to the lieutenant colonel, who is in
10 charge of the division of field services.

11 Q So that initial call that you received about
12 2:32 in the afternoon, how would you characterize that
13 first call?

14 A Again, I'd say it was more of a courtesy
15 notification just to make sure that we weren't on
16 another assignment, that we had members that could
17 respond that day. Obviously, there was the weather
18 issue that day and making sure members could respond to
19 the scene.

20 Q And the weather issue that day? What kind of
21 weather issue are we talking about?

22 A It was a blizzard. I think most areas had
23 received between 18 to 20 inches of snow.

24 Q And, as far as that initial phone call with
25 Lieutenant Tully as far as what was described to you as

1 far as the situation that you'd be responding to -- or
2 what, if anything, did he say in regard to that?

3 A He said that they were conducting a death
4 investigation in the town of Canton. He was looking
5 for assistance with an evidence search.

6 Q And how did you respond to that request on
7 that initial phone call?

8 A I told him we would have members that would be
9 able to respond and that I would start working on the
10 approval process. Looking out my own window, I had
11 been outside my house that day. I had large snow
12 drifts at the end of my driveway. I told him, building
13 a roster and having members clear their driveway, at
14 least an hour plus on our response time.

15 Q And, following that initial conversation, did
16 Lieutenant Tully reach back out to you at some point?

17 A Yeah. I'm not positive if he called me or if
18 I called him. I think after I cleared my driveway, I
19 spoke to my captain just to make sure, to see what the
20 status was on the approval process on our end. He said
21 we were cleared on our end.

22 So either Lieutenant Tully called me or I may
23 have called him because I was getting nervous. My
24 driveway was clear, but the town plow was going to come
25 back and bury the end of my driveway again. So I'm not

1 sure who called who, but I called him and told him that
2 we were cleared through the division of field services.
3 He also told me that we were cleared on his end; the
4 approval request had been approved.

5 Q And do you know approximately what time of day
6 it was that you had that second conversation with
7 Lieutenant Tully?

8 A It was probably about quarter of four, because
9 we sent out an alert to our team at 3:48, telling them
10 that we were authorized to respond to Canton.

11 Q And, as far as your team was concerned, can
12 you speak a bit about sort of that process as far as
13 the response and who was to respond and how you were
14 able to sort of pull together the bodies to respond?

15 A So SERT is broken up. We are geographically
16 dispersed across the state. So we have an east team, a
17 west team. I had reached out to the supervisor from
18 the west team, someone I know who I wouldn't request to
19 drive that far in the snowing conditions to set up a
20 roster for us. So he sent out an alert to the team at
21 2:53, requesting an availability list. I told him to
22 just confirm that the people responding either had a
23 truck or some kind of four-wheel drive vehicle to
24 respond.

25 Q And where was it that you were told or where

1 did you eventually respond to?

2 A Lieutenant Tully told us that we were going to
3 34 Fairview Road in Canton.

4 Q And, from the time that you cleared your
5 driveway, secured response from your higher-ups, about
6 what time was it that you left or how long did it take
7 you to get from your home to 34 Fairview Road?

8 A Like I stated, the alert went out, authorizing
9 the team to start responding at 3:48. I got the exact
10 address via text from Lieutenant Tully at 4:10. We
11 sent out another alert message at 4:17, just reminding
12 people to bring shovels, brooms, rakes, et cetera.

13 I left my house at 4:13 in the afternoon, and
14 I got on scene at 4:56. So it took me 43 minutes to
15 drive there.

16 Q And from your house to that location in
17 Canton, about how -- absent sort of the weather, how
18 long a drive would that normally be?

19 A Probably 20 minutes, sir.

20 Q And, when you respond, how many other members
21 of your unit were able to respond and responded to the
22 scene that day?

23 A Initially, we dispatched eight members,
24 including myself. Only seven of us made it to the
25 scene. One of the members could not get off his

1 street. The end of the street had been plowed in by
2 his town. He had called his town, DPW, to try to get
3 some assistance, but he was not able to make it to the
4 scene.

5 So we only had seven, again, after we
6 initially started at eight, which kind of shifts some
7 of the dynamics of how we ran the search on scene.

8 Q And, getting to that in a moment, when you
9 first arrived on scene, who, if anyone else, preceded
10 your arrival there or who was on scene when you got
11 there?

12 A Just one other trooper from SERT. Trooper
13 Jay Beausoleil was on scene. I believe he arrived two
14 minutes to my arrival.

15 THE COURT: Could you say that name again and
16 spell it?

17 THE WITNESS: Yes. It's Trooper Jason
18 Beausoleil. It's B-E-A-U-S-O-L-E-I-L.

19 THE COURT: Thank you.

20 THE WITNESS: You're welcome.

21 BY MR. LALLY:

22 Q And, Lieutenant O'Hara, when you arrived on
23 scene, where did you park in relation to the house and
24 where was Trooper Beausoleil in relation to the house?

25 A Trooper Beausoleil was just past the driveway

1 of the house, just north of the driveway. I parked
2 almost at the end of the driveway of 34 Fairview.

3 Q And do you recall -- at some point, your
4 attention was directed to an area with a flagpole and a
5 fire hydrant; is that correct?

6 A Yes, sir.

7 Q And do you recall which direction either or
8 both of your vehicle and Trooper Beausoleil's vehicle
9 were facing when you parked in that area of the
10 driveway?

11 A We were facing away from the flagpole
12 originally. Eventually, we moved Trooper Beausoleil's
13 vehicle back towards the flagpole. Just we wanted some
14 extra headlights to light up the scene, the area we
15 would be working in.

16 Q Now, Lieutenant Tully. Was he on scene when
17 you arrived?

18 A He was not.

19 Q At some point, did you reach out to him?

20 A Yes. I gave him a call. He stated he was
21 just leaving Canton P.D. and would be on scene in about
22 five minutes. It was probably around 5:00 o'clock.

23 Q Now, as far as the house that you were parked
24 in front of and as far as the residences on that
25 street, who, if anyone else, as far as neighbors or

1 anything like that or people from the house, did you
2 see outside of the house at any point in time when you
3 were there?

4 A We didn't see anyone outside the house. A
5 resident of 34 Fairview exited briefly after we were
6 first on scene. That was the only person we saw.

7 Q And exited and came down to where you were, or
8 where did that person go?

9 A No. He was -- if you look at the house, there
10 is two front doors, one closer to the garage, which was
11 maybe a mudroom or a den. An adult male exited from
12 that door, had a hooded sweatshirt on. He asked us if
13 we were here for what had happened earlier. We said,
14 yes. And he walked back inside the house.

15 Q Now, as far as the -- you mentioned a bit
16 about the snow. But, as far as the roadway conditions
17 of the area you were in, what, if anything, did you
18 note or observe in regard to the roadway and sort of
19 how it had been treated or plowed prior to your
20 arrival?

21 A The plow had really only cleared the center of
22 the road. There was a good three- to four-foot
23 snowdrift coming off each side of the road. So maybe
24 enough for two vehicles to pass but not cleared curb to
25 curb.

1 Q And, as far as Lieutenant Tully arriving to
2 the scene around five, at some point, did he -- what,
3 if anything -- where did he direct you to?

4 A He instructed us that the death investigation
5 involved a motor vehicle. He told us where the motor
6 vehicle was believed to have been parked and wanted us
7 to search from that area, south towards the
8 flagpole/fire hydrant.

9 Q Now, as far as this type of search was
10 concerned, had you -- what, if any, experience did you
11 have doing this type of search in these types of
12 conditions?

13 A In blizzard conditions, we've really never
14 done evidence searches like this. We've done missing
15 person searches we've gone out to. But for evidence
16 searches, nothing like this. If something -- if a
17 scene could be secured, we really wouldn't respond in a
18 situation like this unless we really needed to.

19 Q Now, as far as the search that your team does,
20 if you could -- is it typical or is it not typical as
21 far as conducting a search of an area that had already
22 been gone over by another agency or by someone else
23 within the state police?

24 A We are a Stage II response. So pretty much
25 every search we've ever done has been previously

1 searched. We're never really the first person to
2 search an area.

3 Q And can you describe sort of, I guess, the
4 difference between what you do as far as searching is
5 concerned and sort of looking or making observations or
6 things of that nature?

7 A I think our training is a lot different than
8 maybe the regular patrolmen or trooper responding.
9 There's not much training provided anymore in the
10 academies. So we do extensive training through a lot
11 of the search-and-rescue groups that we are a part of,
12 which would be the National Association for Search and
13 Rescue, which is NASAR. We do search and rescue
14 initial actions. We do line searching, managing lost
15 person incidents.

16 We do multiple trainings a month with the team
17 which is different than what other personnel would get,
18 I think. Traditionally looking back to even my time
19 before I was a member of SERT, a search would be, you
20 go this way, I'll go that way. There was really no
21 methodical approach to the search.

22 Q And, as far as your training is concerned as
23 it relates to this particular search, what, if any,
24 sort of methodical approach did you develop or what did
25 you employ in this particular case?

1 A We gridded off or marked off the area
2 Lieutenant Tully thought would be the best area for us
3 to search. So we had a starting point and an end
4 point. Once all the members got on scene, we set up a
5 line search or what we would call a grid search which,
6 again, would be just a slow, methodical search with all
7 of us working in unison, moving through the area.

8 Q And about how big an area was it that you
9 initially sort of set out to search?

10 A It was just over 50 feet, I believe, from the
11 front door, which is the left door, looking at the
12 house from the street, to the fire hydrant. I believe
13 it was 59 feet.

14 Q Was that length or width?

15 A That is length.

16 Q And, as far as the width of the area that you
17 were searching, about what kind of area were you
18 searching?

19 A About three to four feet. There was a
20 snowdrift coming off the curb.

21 Q Now, as far as the information that you
22 received prior to conducting the search, were there any
23 items that were specifically identified as far as items
24 that you might be looking for or what, if anything, was
25 given to you in relation to that?

1 A Lieutenant Tully had informed us that the
2 victim in this case was struck by a vehicle. He
3 believed there would be broken pieces of taillight in
4 the area. He also stated the victim was missing his
5 sneaker. So he asked to search for both of those
6 items.

7 Q And, sir, at some point, did you ask
8 Lieutenant Tully any questions about the vehicle in
9 question or anything in relation to that?

10 A After we had found one or two of the pieces of
11 the taillight, I asked him if he knew how big, how much
12 damage was the taillight or if he had a photo that we
13 could get of the taillight.

14 Q And what, if anything, did he tell you?

15 A He told us at that time the vehicle was being
16 towed back to Canton P.D. So he did not have a photo
17 to show us.

18 Q And, at any point, did he make any reference
19 to who was coming along with the tow to Canton P.D.?

20 A He said Sergeant Bukhenik and Trooper Proctor
21 were following the vehicle back to Canton P.D.

22 Q You mentioned an alert that was sent out to
23 the troopers as far as to bring certain items. Can you
24 describe for the jury sort of the process and what, if
25 any, tools or implements you used and sort of how that

1 search was conducted?

2 A So like I said, we moved Trooper Beausoleil's
3 vehicle to face the scene to use his headlights for
4 extra light for the scene. All the team members also
5 put on a headlamp which was basically just like a
6 hiking headlamp. We all had shovels. We had a couple
7 of rakes, the smaller garden rakes, just to kind of
8 help us sift through the snow. And I also had a small
9 push broom to move the snow around, as well.

10 Q Now, you mentioned sort of the headlamps and
11 moving the vehicle as far as the headlights on the area
12 that you were searching. What was the visibility and
13 what was the lighting conditions around that area at
14 that time you were conducting the search?

15 A It was poor lighting. There really wasn't
16 much as far as street lighting. But, with the
17 headlamps, we had decent visibility.

18 Q So when you first arrived on scene about 4:53
19 p.m. or so, was it dark out then?

20 A Yes, it was.

21 Q Okay. And it remained dark while you were
22 still on scene?

23 A Yes, sir.

24 Q And, in the area that you were looking, is it
25 your testimony there wasn't much overhead sort of

1 ambient lighting or street lighting in that area as far
2 as you recall?

3 A Nothing that really helped the search.

4 Q So the area you were searching was in the area
5 of the fire hydrant; is that correct?

6 A We started almost directly across from the
7 front door and moved south towards Chapman Street,
8 towards the fire hydrant.

9 Q And, to be clear, as far as the area that you
10 were searching with the shovels and the other different
11 implements to sort of sift through the snow, where was
12 your focus as far as the street versus the front lawn
13 area?

14 A Our right flank was on the curb and then we
15 moved out across the street from there. So we lined
16 almost shoulder to shoulder as we moved down, as we
17 moved south through the area we were searching.

18 Q So you're primarily searching or entirely
19 searching along the roadway; is that correct?

20 A Correct.

21 Q And, as far as at some point did you, through
22 the course of sort of the shoveling and the removal of
23 snow from that area, did you approach or come in
24 contact with the area of the grass on the front lawn?

25 A We did. One of the members who was working

1 along the curb, he started to clear some of the grass
2 on the front lawn. Yes, sir.

3 Q And what, if any, issues did you and the other
4 troopers encounter when you got to sort of the grass
5 area?

6 A It was very difficult to clear the snow. I
7 don't think we had very good visibility in what we were
8 moving, even with the push broom and the rake. It was
9 very difficult to definitively say we had cleared the
10 lawn properly. So we didn't focus too much of our
11 efforts on that area.

12 Q Now, you referenced that only seven members of
13 your unit were able to respond because one got stuck in
14 the snow at the end of his street; is that correct?

15 A Correct, sir.

16 Q And that had some impact as far as
17 documentation of the scene; is that correct?

18 A Correct. Normally on a search if I'm the
19 overall -- as a team leader, I would run what you would
20 consider the command post, be the incident commander
21 for SERT. I would stay behind the line and kind of
22 document our efforts. But, because this was such a
23 small search area, it wasn't really an issue because we
24 weren't breaking people off in a team to know it was
25 out of my sight line. And we had multiple detectives

1 on scene that were able to fill that role for me.

2 Q And so to that point, as far as the seven
3 members from your unit, in addition to the seven
4 members from your unit, who, if anyone else, was
5 present during the course of that search?

6 A I believe there were five other members. I
7 believe there were only two that I recognized from the
8 state police. So I'm not sure who the other three
9 were, whether they were Canton detectives or Canton
10 patrolmen. But they were all dressed in plainclothes.

11 Q And, as far a documentation for the scene,
12 what, if anything, was done with reference to that and
13 by who?

14 A As we began to find evidence, I spoke to
15 Lieutenant Tully just to confirm that he was going to
16 document everything we were recovering via photograph
17 and evidence log.

18 Q And, as far as were documents or photos taken
19 by Lieutenant Tully?

20 A Yes, they were, sir.

21 Q And the items that were photographed, were
22 they photographed prior to anyone sort of touching them
23 or moving them or placing them other than what was sort
24 of related to the search effort?

25 A Correct. As soon as we found anything deemed

1 as evidence, we stopped our search efforts until they
2 were documented by Lieutenant Tully.

3 Q And, in reference to your search efforts,
4 what, if anything, of evidentiary value did you and
5 your team locate?

6 A We found multiple pieces of red and clear
7 taillight.

8 Q And where were they in relation to sort of the
9 grid or the area that you had set up to search?

10 A They were on the street, in between the
11 flagpole and the fire hydrant.

12 Q And, sir, in addition to the pieces of red and
13 clear plastic of a taillight that you uncovered, do you
14 know approximately how many pieces of that you were
15 able to locate on that day?

16 A I believe maybe six or seven pieces.

17 Q And how big or how small or did they range in
18 size as far as the pieces that you located?

19 A There was three larger pieces, two red, one
20 clear and then a couple smaller pieces.

21 Q In addition to the pieces of red and clear
22 plastic taillight that were uncovered during the search
23 process, what, if any, other items of interest were
24 located?

25 A We found a sneaker.

1 Q And where was that sneaker located in
2 reference to the scene and your search efforts and in
3 reference to the pieces of clear and red plastic?

4 A It was the same location generally. It was in
5 between the flagpole and the fire hydrant. The sneaker
6 was flush up against the curb, and it was upside down.
7 I think we found one piece of taillight prior to the
8 sneaker. And then after we found the sneaker, we found
9 a few more additional pieces of taillight.

10 Q Now, with reference to the sneaker and each of
11 those pieces of red and clear plastic, where were they
12 in relation to the snow that was being dug through?
13 And, by that, where were they in relation to the
14 ground?

15 A Can you repeat the end of that, sir?

16 Q Sure. With reference to each of the items of
17 evidence that you've been talking about, whether it be
18 the sneaker or the red and clear plastic, where were
19 they in relation to the snow that you were digging
20 into? Where were they in relation to the asphalt
21 surface of the roadway?

22 A Close to the curb. As we started digging
23 originally, the snowdrift, the snow pack was pretty
24 solid from where the plow had cleared to. So once we
25 were able to move through that, we started getting into

1 fresh, undisturbed snow and started moving through
2 that, which was a lot easier to move at that point.
3 And all of the items we found were close to the curb.

4 Q And so my question, also, sir, is sort of how
5 deep within the snow that you were digging was each of
6 those items?

7 A They were all found at ground level.

8 Q And, as far as the area that you were
9 searching beyond sort of snowdrifts and plowing toward
10 the middle of the road, how would you characterize that
11 snow as far as did you observe any footprints or any
12 tire tracks or anything in that area where you were
13 digging through and finding these items?

14 A No. We did not see anything, sir. Like I
15 said, it was all fresh, undisturbed snow once we got
16 past wherever the plow had cleared up to.

17 Q Now, as far as this search being conducted
18 sort of physically, you mentioned there is some sort of
19 line that's set up; is that correct?

20 A Correct.

21 Q And can you describe for the jury sort of how
22 that line was set up? What were the different
23 functions and different parts of the line and where
24 were you in relation to that?

25 A Like I stated, we had what we considered our

1 right flank stood on the curb closest to the house, and
2 then we moved left into the street. As we dug the snow
3 out, it was originally inspected as they would pull
4 their shovel out and make sure they didn't have
5 anything in their shovel to the best of their ability.
6 And then they would bring it out to the street. I was
7 the left flank. They would dump it in the street, and
8 I would sift through it at the end, just to make sure
9 there was no evidence that had come out to the street.

10 Once I was positive that nothing was in that
11 snow, I would toss it onto the other side of the
12 street. We just continued that process as we moved
13 south through that grid.

14 Q And the depth of the snow that you were
15 digging through, how did that change or how was that
16 any different from sort of one portion of the section
17 to another?

18 A Where the plow had touched, you know, clear
19 to, I'd say that was probably about a three-plus foot
20 in height. But, as we moved into the snow, itself,
21 getting closer to the curb, I was in level with the
22 rest of the area, what was on the front lawn, what was
23 on the neighbor's lawn. So probably maybe 18 inches of
24 snow.

25 Q And, sir, as far as this search was concerned,

1 about how long a period of time was it that you were on
2 scene as far as searching? How long a process are we
3 talking about?

4 A After Lieutenant Tully showed up and kind of
5 informed us where we were going to search, we moved
6 Trooper Beausoleil's vehicle at 5:20. And that's when
7 the rest of the team started to show up, right around
8 5:21, 5:24. A couple of other members with extended
9 response time showed up a little bit after that. But
10 all members were on scene by 5:41. We had already
11 started the process before they had all arrived on
12 scene, and we were complete by 6:15. We started to
13 wrap up and clear the area.

14 Q And, as far as the wrapping up, how was that
15 decision arrived at and sort of what led to that
16 decision at that point?

17 A So after we found the sneaker and a couple of
18 additional pieces of taillight, we moved south for, I'd
19 say, over five feet, maybe closer to eight to 10 feet,
20 without finding any other pieces of evidence.

21 Lieutenant Tully and I had a conversation. He
22 was very satisfied that we had found everything we were
23 going to locate at that time, and we decided to suspend
24 the search.

25 Q And what was -- as far as you were concerned

1 with weather conditions and everything that had gone on
2 or what you had located at that point, what was sort of
3 your thought process in relation to any sort of
4 continuation of the search at some later time?

5 A I told Lieutenant Tully, we'll do a debrief at
6 the end. We'll go over probability of detection, how I
7 feel, whether we found everything that was there. I
8 told him there was a good chance we did not find
9 everything and said, if you want us to come back in the
10 daylight to give us better lighting to search or after
11 a couple of days, the weather was supposed to warm up,
12 if you wanted us to come back after there was some snow
13 melt just to reach out to me and we would come back.

14 Q And, as far as suspending the search at that
15 point, was that something that was your decision
16 independent of Lieutenant Tully?

17 A No. That was in consultation with
18 Lieutenant Tully.

19 Q Now, you mentioned Troopers Bukhenik and
20 Proctor or you received information that they were
21 following a vehicle to the station; is that correct?

22 A Correct, sir.

23 Q At any point in time that you were on scene,
24 did you -- do you know either Sergeant Bukhenik or
25 Trooper Proctor?

1 A Yes. I know both of them, sir.

2 Q And, at any point in time that you were on
3 scene, did you see either Sergeant Bukhenik or
4 Trooper Proctor in the area of 34 Fairview during the
5 entire time you were there?

6 A No. They were not on scene.

7 Q So the other sort of troopers that you had
8 mentioned around, they were not them, correct?

9 A They were not there, no.

10 Q Now, as far as the securing of evidence, how
11 is that done sort of generally speaking in relation to
12 searches that your unit conducts, and how was it done
13 in this specific case?

14 A So we don't recover evidence. We will stop
15 and halt our search. Sometimes we've been waiting for
16 crime scene to show up for two hours before we continue
17 the search.

18 So once we found the first piece of taillight,
19 again, I conferred with Lieutenant Tully and asked him
20 if he was documenting it and covering everything. He
21 stated that he was. Once we felt comfortable that he
22 had done that properly, we then continued the search.

23 Q Sir, once you get sort of that initial
24 parameters as far as where and what you may be looking
25 for from Lieutenant Tully, is Lieutenant Tully

1 directing your search efforts in any way, shape or
2 form?

3 A He is not, no.

4 Q And is that typical as far as how searches
5 would be conducted?

6 A Correct. Yes. They let me run the search the
7 way I deem best.

8 Q And, sir, in addition to the photographs,
9 what, if anything, else was done to document the scene?

10 A We had one of our members use a handheld GPS,
11 which we use a Garmin 64ST. And he marked each item we
12 found which we then can upload later to a map, which we
13 did later that evening.

14 Q And, if you could, just describe to the jury
15 that process as far as mapping is concerned and sort of
16 how global positioning systems or GPSs are utilized in
17 creating that?

18 A Correct. So the Garmin GPS that we use, it
19 connects to four different satellites to give you a
20 best range of your location. There obviously is some
21 range error involved with GPSs. But he was able to
22 stamp three of the items, three pieces of the
23 taillight. But, as he was marking those items on his
24 GPS, they kept -- because they were in such close
25 proximity, they were almost marking directly on top of

1 each other. So he only marked three of them because it
2 was just going to clutter the map as we continued if we
3 were to mark all of these that we located.

4 Q Sir, with respect to the three pieces of
5 taillight that were marked on the diagram, were those
6 the larger pieces, smaller pieces or something else?

7 A They were the larger pieces, sir.

8 MR. LALLY: May I approach the witness, Your
9 Honor?

10 THE COURT: Yes.

11 BY MR. LALLY:

12 Q Sir, I'm showing you a series of 24
13 photographs and ask you to just look at those briefly.
14 I am going to ask you in a moment if you recognize
15 them.

16 Do you recognize what's in those photographs,
17 sir?

18 A Yes, sir. It's the area we searched and some
19 of the evidence that we recovered.

20 MR. LALLY: Your Honor, the Commonwealth would
21 seek to introduce and admit as the next exhibits.

22 THE COURT: Any objection, Mr. Yannetti?

23 MR. YANNETTI: There is no objection, Your
24 Honor. Thank you.

25 (Whereupon, photographs were entered and marked

1 Exhibits No. 111 through 134 in Evidence.)

2 MR. LALLY: While they are being marked, may
3 we approach briefly? I'm sorry. She needs to have
4 her attention on the marking. I'm sorry.

5 THE COURT REPORTER: Exhibits 111 through 134.

6 THE COURT: Thank you. Jurors, it's very
7 important that we keep our record straight. It
8 will be important for you during the deliberations
9 that we do this. Sometimes it takes a while. We
10 are fortunate we've got such a great court reporter
11 here to take care of this for us but sometimes it
12 takes a while. I caution counsel that maybe you
13 can all work together so we can do this and not
14 take up any extra time.

15 All right. Do you need those photos back,
16 Mr. Lally?

17 MR. LALLY: Yes, Your Honor.

18 MR. YANNETTI: May we approach, Your Honor?

19 THE COURT: Yes.

20 (Whereupon, there was a sidebar conference as
21 follows:)

22 MR. YANNETTI: I just want to make sure there
23 is no confusion. The exhibits, when they were
24 shown to me, all had exhibit numbers on them dated
25 April 30th with the court reporter's initials.

1 Were those -- I want to know what those were. Were
2 those premarked and never introduced into evidence?
3 Because the way they look to me, the trial stated
4 on April 29. I thought these were in based on what
5 I was looking at.

6 THE COURT REPORTER: If I may, just for the
7 record -- this is the court reporter speaking -- I
8 put a slash mark in all of those. Those were never
9 entered. They were marked pretrial in agreement or
10 pre-witness in agreement.

11 MR. YANNETTI: I see.

12 THE COURT REPORTER: I put a slash through
13 each one. That's what took me so long.

14 MR. YANNETTI: So they were never introduced.

15 THE COURT REPORTER: They were never
16 introduced.

17 THE COURT: And then numbers these exhibits
18 too --

19 MR. YANNETTI: I just wanted to make sure.
20 (Whereupon, the sidebar conference concluded.)

21 MR. LALLY: Your Honor, with the Court's
22 permission, may I publish what's just been marked
23 as those exhibits for the jury?

24 THE COURT: Yes.

25 MR. LALLY: May I approach the witness, Your

1 Honor?

2 THE COURT: Yes.

3 BY MR. LALLY:

4 Q So what you have before you is a laser
5 pointer. Just click on that and point to the screen if
6 I or anyone asks you to do so. All right?

7 A Okay. Thank you.

8 MR. LALLY: Ms. Gilman, if you could put up --

9 Q So, Lieutenant O'Hara, what you have up on the
10 screen before you, is that what you have as Exhibit
11 134? I'm sorry. 111. I apologize.

12 A Yes. 111, sir.

13 Q If you could describe for the jury -- using
14 that laser pointer, what, if anything, of significance
15 do you observe in this particular photograph?

16 A This is a flagpole in front of the house. As
17 you move south, this appears to be one of the pieces of
18 taillight that we recovered.

19 MR. LALLY: Ms. Gilman, if you could zoom back
20 out a little.

21 Q Now, as far as when you're conducting the
22 search or when the actual searching process is ongoing,
23 what was the weather doing while you were doing that --

24 THE COURT REPORTER: I'm having a hard time
25 hearing --

1 THE COURT: Yes, because of the air-
2 conditioning. So you need to speak up really
3 loudly into that microphone.

4 BY MR. LALLY:

5 Q And so, Lieutenant, during the course of the
6 process as you're conducting this search, what was the
7 weather doing and is that something you can observe in
8 this photograph?

9 A It was still snowing, and you can see some of
10 the snowflakes falling here by the flagpole.

11 Q As far as the wind was concerned, what, if
12 any, impact did the wind have on the searches you were
13 conducting?

14 A It was windy, but it really didn't impact how
15 we were searching through the area.

16 Q And, sir, if I could direct your attention to
17 the next photograph, 112.

18 A Okay.

19 Q And, again, sir, what's up on the screen, is
20 that what you have before you?

21 A Yes, it is.

22 Q Is this sort of a different perspective of the
23 same area that you were talking about in the last
24 photograph; is that correct?

25 A Correct.

1 MR. LALLY: If I could have the next
2 photograph, 113.

3 Q Again, what's up on the screen, is that what
4 you have before you as 113?

5 A Yes, it is.

6 Q And, again, sort of a closer perspective to
7 the piece of taillight that you were referring to; is
8 that correct?

9 A Correct.

10 MR. LALLY: If I could have the next
11 photograph, please.

12 THE COURT: You really have to speak up.

13 MR. LALLY: Yes, Your Honor.

14 BY MR. LALLY:

15 Q Again, Lieutenant, what's up on the screen, is
16 that what you have before you?

17 A Yes, it is.

18 Q Again, a closer-up image of that same piece of
19 taillight as it was observed when you recovered it?

20 A Correct. And you can see right here to the
21 left of the taillight, that is the molding of a shovel.
22 So this piece of taillight was picked up by one of the
23 team members' shovels. And, as they overturned it, you
24 can see the taillight came up as they were searching
25 through the area. And this is kind of the markings of

1 the shovel, itself.

2 MR. LALLY: If I could have the next --

3 THE COURT REPORTER: I didn't hear that.

4 THE COURT: So we are going to have to turn
5 the air-conditioner off.

6 MR. LALLY: I'll scream if I have to. The
7 issue is I'm trying to move away from the podium.

8 THE COURT: I understand, but we need to turn
9 the air-conditioner off.

10 MR. LALLY: Understood.

11 BY MR. LALLY:

12 Q And, again, Lieutenant, what's up on the
13 screen, is that what you have before you as the next
14 exhibit?

15 A Yes, it is.

16 Q And if you could describe for the jury what we
17 are looking at in this photograph?

18 A You can see the piece of taillight that we
19 recovered. And, again, this is the overturned snow
20 from the shovel and, again, seeing the markings from
21 the shovel from where it was overturned.

22 MR. LALLY: And the next photograph,

23 Ms. Gilman.

24 Q This particular piece, is this one of the
25 larger or is this one of the smaller pieces that you

1 were describing earlier in your testimony?

2 A This is one of the larger pieces, sir.

3 Q And, as far as length or size of it, if you
4 know, how much would you estimate how big is it?

5 A I guess a couple of inches. But I didn't
6 measure it, sir.

7 MR. LALLY: Ms. Gilman, if I could have the
8 next photograph?

9 Q And, Lieutenant, if you could describe to the
10 jury sort of what is depicted or what, if anything, of
11 significance you observed in this photograph?

12 A So this is the SERT members working through
13 the area, again, working as a line through the grid
14 formation. One of the things we stress is critical
15 separation, making sure you're close enough to each
16 other that you won't miss a piece of evidence. If you
17 are too far apart, you will miss that. A lot of times
18 before searches, we will take an item of similar,
19 similar size item that we are looking for, and we will
20 space out. Because this was such a condensed search
21 area, we just had the team members stand almost
22 shoulder to shoulder as they searched through the area.

23 MR. LALLY: And the next photograph,

24 Ms. Gilman.

25 Q Again, sir, if you could describe for the jury

1 sort of what we're looking at or what, if anything, of
2 significance you observed in this photograph?

3 A It may be a little difficult to see from a
4 distance. But right here is the sneaker that we
5 recovered.

6 Q And, as far as the area of curbing that you
7 indicated that sneaker was recovered in relation to,
8 where is that?

9 A It's flush up against the curb.

10 Q Again, I'm sorry, using the laser pointer --

11 A I apologize, sir. Right here. This would be
12 the curbing right here (indicating.)

13 MR. LALLY: The next photograph, Ms. Gilman.

14 Q And, sir, similar, as far as this photograph
15 is concerned, what, if anything, do you observe in that
16 photograph? What are we looking at?

17 A It's a closer photo of the sneaker. The
18 sneaker is in the bottom, right down here.

19 MR. LALLY: And the next photograph.

20 Q And, again, what, if anything, are we looking
21 at in this photograph, sir?

22 A Again, you're looking at the sneaker. This is
23 just a closer, zoomed-in photo. And this would be the
24 curbing right here (indicating).

25 Q And the sneaker as it's portrayed in this

1 particular photograph, is that as it was when it was
2 recovered?

3 A Yes, sir.

4 MR. LALLY: The next photograph, Ms. Gilman.

5 Q Sort of the other side of that sneaker; is
6 that correct?

7 A Correct, sir.

8 Q And is that sort of its relation to the curb
9 that you described earlier in your testimony?

10 A Yes, sir. You can see the curbing right here
11 (indicating).

12 MR. LALLY: The next photograph.

13 Q Now, as far as the sneaker was concerned when
14 it's recovered, where was the snow in relation to --
15 was it on, around, in? Where was the snow in relation
16 to the sneaker?

17 A The sneaker was completely buried. It wasn't
18 until we started digging through the snow that we found
19 the sneaker.

20 MR. LALLY: The next photograph, Ms. Gilman.

21 Q Again, this is how it was discovered; is that
22 correct?

23 A Correct, sir.

24 Q Or how it appeared when it was discovered, I
25 should say?

1 A Yes, sir.

2 MR. LALLY: The next photograph, Ms. Gilman.

3 Q And, sir, in this photograph, if you could,
4 using the laser pointer, draw the jury's attention to
5 what, if anything, of significance you observed?

6 A This is Exhibit 125, is the photo I have in
7 front of me. This would be -- it might be difficult
8 for them to see, but this is a clear piece of the
9 taillight right here (indicating).

10 MR. LALLY: The next photograph, Ms. Gilman.

11 Q And, again, sir, what is depicted in Exhibit
12 126?

13 A You can see a little closer, a zoomed-in
14 version of the clear piece of taillight that was
15 recovered.

16 Q And, as far as the area of snow surrounding,
17 does that sort of depict the depth at which that piece
18 of clear plastic taillight was discovered?

19 A Correct, sir.

20 MR. LALLY: The next photograph, 127.

21 Q What, if anything, are we looking at in this
22 one?

23 A A different angle of the piece of clear
24 taillight that was recovered.

25 MR. LALLY: The next photograph, Exhibit 128.

1 Q Sir, if you could describe for the jury what
2 is depicted in Exhibit 128?

3 A It's difficult to see, but there is a piece of
4 clear taillight right here (indicating). I can see it
5 with the photo in front of me, but I'm not sure if the
6 jurors can see it from that distance. But there is a
7 clear piece of taillight in this location.

8 MR. LALLY: The next photograph, Exhibit 129.

9 Q And, again, if you could demonstrate to the
10 jury what, if anything, of significance you observe?

11 A Again, there is a piece of clear taillight
12 right in this location (indicating).

13 Q A different piece of taillight than the one
14 you were referring to previously in the prior exhibits?

15 A Yes, sir.

16 MR. LALLY: The next photograph, 130.

17 Q And what, if anything -- what are we looking
18 at here?

19 A Again, there is a piece of clear taillight.
20 It might be difficult from the distance for the jurors,
21 but it's in this location here (indicating).

22 MR. LALLY: The next photograph, 131.

23 Q What, if anything, is depicted in Exhibit 131?

24 A There is a larger piece of red taillight
25 located on the ground in this location (indicating).

1 MR. LALLY: And the next exhibit, 132.

2 Q What, if anything, are we looking at in 132,
3 sir?

4 A It's a closer photo of the same piece of
5 taillight, right here, located on the ground
6 (indicating).

7 MR. LALLY: The next exhibit, 133.

8 Q What, if anything, is depicted in 133?

9 A There is a small piece of taillight, I
10 believe, in this location right here.

11 MR. LALLY: And, lastly, Exhibit 134.

12 A It's a small piece of taillight right on the
13 ground, right here in this location (indicating).

14 Q Thank you, sir.

15 MR. LALLY: Your Honor, may I approach?

16 THE COURT: Yes.

17 BY MR. LALLY:

18 Q I'll trade with you, sir, and take those 24
19 away and give you these two. If you could just take a
20 look at those and look up when you're finished.

21 A (Witness complies.)

22 Q Do you recognize those?

23 A Yes, I do, sir.

24 Q What do you recognize those to be?

25 A This is our mapping system we use to map out

1 evidence we recover.

2 Q Were those diagrams created pursuant to that
3 mapping system?

4 A Yes, they are.

5 Q What's contained in those diagrams, is that a
6 fair and accurate portrayal of where items were
7 recovered in relation to the various markers on scene
8 at 34 Fairview on January 29th in the afternoon?

9 A Yes. The marks showing on the map, they are a
10 little offset. But that falls within the range of
11 error with the handheld GPSs.

12 MR. LALLY: May I approach, Your Honor?

13 THE COURT: Yes.

14 MR. LALLY: The Commonwealth would seek to
15 introduce them as the next two exhibits.

16 MR. YANNETTI: No objection to the maps.

17 THE COURT: All right. Thank you.

18 (Whereupon, map was entered and marked Exhibit No.
19 135 in Evidence.)

20 (Whereupon, map was entered and marked Exhibit No.
21 136 in Evidence.)

22 THE COURT REPORTER: Exhibits 135 and 136,
23 Your Honor.

24 THE COURT: Thank you.

25 MR. LALLY: Thank you. And, Your Honor, with

1 the Court's permission, may I publish those in
2 succession to the jury?

3 THE COURT: Yes.

4 BY MR. LALLY:

5 Q Now, Lieutenant O'Hara, what you have in front
6 of you, the first diagram, 135, is that what's up on
7 the screen?

8 A Yes, it is, sir.

9 Q You mentioned something earlier in your
10 testimony just now in regard to sort of items being
11 found in close proximity, creating some overlay with
12 the GPS system; is that correct?

13 A Correct, sir.

14 Q And you mentioned range of error; is that
15 correct?

16 A Correct, sir.

17 Q Can you describe what the range of error is
18 and how that impacts sort of how it's depicted in this
19 particular diagram?

20 A So GPS's typical range of error on a clear day
21 is up to 16 feet. Obviously, we didn't have a clear
22 day. We had atmospheric conditions, cloudy, snowy
23 conditions. GPSs can be affected for the range
24 accuracy by a few different things. One is the
25 satellite geometry. As I said before, the GPSs connect

1 to four different satellites. You also could have
2 signal blockage. Blockage could occur from trees,
3 buildings, bridges. Then you have atmospheric
4 conditions like I mentioned, and then you have the
5 receiver end, any issues with your receiver end, which
6 is actually the handheld GPS. Those would be the four
7 main issues and why you may have a little offset on
8 your GPS readings. But, again, typically, under clear
9 sky conditions, it would be up to 16 feet.

10 Q And, sir, using the laser pointer, if you
11 could direct the jury's attention to what, if any, sort
12 of significant markers or what has been marked on this
13 particular diagram?

14 A I've listed this as the command post, which is
15 where my vehicle was parked. We have the address,
16 which is the house, 34 Fairview. Then, as you move
17 further south, you'll see the first red plastic that we
18 recovered which, again, was the larger piece of red
19 plastic. Kind of stamped on top of each other, but
20 you'll see the sneaker. You'll see a second red piece
21 of plastic, and you'll see the fire hydrant all marked
22 on the map.

23 Q Thank you, sir.

24 MR. LALLY: Ms. Gilman, if I could have the
25 next diagram, please?

1 Q Again, sir, what's up on the screen, is that
2 what you have before you as Exhibit No. 136?

3 A Yes, it is.

4 Q And, again, if you could describe for the
5 jurors what we are looking at in this diagram or what,
6 if anything, is different between 136 and 135?

7 A We just changed the layering on the map just
8 to make it a little easier to read. So we removed the
9 taillight pieces and now we just have the sneaker and
10 the fire hydrant listed on the map here.

11 Q And that area as far as you were talking sort
12 of the concentration of the search was in the area of
13 the flagpole and the fire hydrant; is that correct?

14 A Correct, sir. We started closer to -- almost
15 directly across from the front door. The evidence
16 recovery all happened between the flagpole and the fire
17 hydrant.

18 Q And, if you could or if it's possible on this
19 diagram that you have up on the screen, could you,
20 using the laser pointer, direct the jury's attention to
21 sort of where the search began and where the items of
22 evidence were?

23 A The search would have begun right in this
24 area. And, as we moved south, we started finding
25 pieces of evidence right around here (indicating).

1 Q And then the area that you went about five or
2 somewhere between five and 10 feet, is that your
3 testimony, beyond when you started to not find anymore
4 items of evidentiary value; is that correct?

5 A Correct. We had gone past the fire hydrant
6 and hadn't found any other pieces of evidence for it's
7 probably closer to eight to 10 feet. And that's when
8 we suspended the search.

9 Q Sir, just using that laser pointer, if you
10 could direct the jury's attention to that eight to 10
11 feet? In which direction was that from the items of
12 evidence?

13 A Heading south towards Chapman Street. So down
14 in this location would be where we stopped.

15 Q Thank you, sir.

16 MR. LALLY: Your Honor, may I approach just to
17 retrieve?

18 THE COURT: Yes.

19 BY MR. LALLY:

20 Q Now, sir, at any point in time that you were
21 on scene, were you able to look at or see any sort of
22 photographs or any images of the damage to the
23 taillight?

24 A No, I was not.

25 Q So fair to say that at the time that you're

1 conducting your search on that particular afternoon,
2 you weren't aware of how much taillight could be there
3 or how much you might be looking for, correct?

4 A Correct. We did not know how much damage
5 there was.

6 Q Now, sir, you talked a little bit about --
7 well, let me ask you this: As far as from your
8 training and experience in relation to conducting these
9 types of searches, are you familiar with a term known
10 as "POD"?

11 A Correct, sir. That would be probability of
12 detection.

13 Q And I believe you've referenced earlier in
14 your testimony some variables that go into that
15 terminology; is that correct?

16 A Correct.

17 Q And can you describe to the jury sort of what
18 some of those variables are and how it related to this
19 particular search?

20 A So probability of detection winds up turning
21 into a mathematical formula to make it simpler, give us
22 more of a baseline objective on how well we did
23 searching the area. It covers 10 different categories.
24 We'll rate those categories one through 10 on how we
25 feel we did and kind of come up with a score to give

1 just a baseline of what we think percentage-wise we
2 would have found, the objects we're looking for.

3 Those categories would include the terrain,
4 number one. Hazards would be two. Lighting would be
5 three. Weather would be four. Vegetation would be
6 five, which, in this case, would have been some of the
7 grass we encountered as we got on the front lawn.

8 As you continue on, with your spacing, which
9 is, again, how the team members are separated as we are
10 searching through the area; the tactics you're using;
11 the area size. Then the team composition and then the
12 last one is instincts and variables. Really the last
13 two, I think, is what works best for us. What stands
14 out most about our team is the team composition and
15 instincts from the experience that we have in
16 searching.

17 Q And so was it those variables that sort of led
18 to the conclusion in conjunction, yourself and
19 Lieutenant Tully, as far as cease searching at that
20 particular point after you'd gone eight to 10 feet
21 south of the evidentiary items without locating any
22 other evidentiary items?

23 A Correct, sir.

24 MR. LALLY: Thank you. I have no further
25 questions of this witness. Thank you, sir.

1 THE COURT: All right.

2 THE WITNESS: Thank you, sir.

3 THE COURT: Mr. Yannetti?

4 MR. YANNETTI: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. YANNETTI:

7 Q Good morning, Lieutenant.

8 A Good morning, sir.

9 Q Sir, so you will agree with me that it was
10 Lieutenant Brian Tully who first called you at 2:32
11 p.m. to ask that your team come out for an evidence
12 search?

13 A That's correct, sir.

14 Q And you knew at that time that Lieutenant
15 Tully was the -- well, he was in charge of the Norfolk
16 County State Police Detectives Unit, correct?

17 A Correct, sir.

18 Q Attached to the Norfolk County D.A.'s Office,
19 correct?

20 A Correct, sir.

21 Q And you also knew Trooper Michael Proctor at
22 that time?

23 A I knew who he is. Yes, sir.

24 Q And you knew that Trooper Michael Proctor was
25 in the same unit as Lieutenant Tully, correct?

1 A I don't know if I knew he was assigned to that
2 office. I'm not sure where he was assigned, sir.

3 Q You've since found out that he is?

4 A Correct, sir.

5 Q Now, you told Lieutenant Tully during that
6 phone call at 2:32 p.m. that you would make your team
7 available that day, correct?

8 A Yes, sir.

9 Q But, at that point in time, Lieutenant Tully
10 specifically held you up, right, because he didn't have
11 authorization yet?

12 MR. LALLY: Objection.

13 THE COURT: Is that true?

14 THE WITNESS: It's not.

15 BY MR. YANNETTI:

16 Q Okay. He told you that he did not have the
17 green light, correct?

18 A He had not requested official response from
19 SERT at that time.

20 Q So you were not authorized to respond at that
21 time, correct?

22 A No. Neither one of us were allowed to
23 dispatch my team. We have to send up formal requests
24 to get authorization to respond.

25 Q All right. Now, by 2:32 p.m. on January 29th

1 when you first spoke to Lieutenant Tully, snow had been
2 falling consistently in Canton since the early hours,
3 correct, the early morning hours?

4 A I would assume so, yes, sir. If --

5 Q I'm sorry?

6 A If it wasn't my house, I would assume so, yes.

7 Q But you lived in Massachusetts at that time,
8 right?

9 A Yes, I did, sir.

10 Q And you weren't hours away when you were
11 contacted by Lieutenant Tully, correct?

12 A I was not, no.

13 Q Now, you were aware that John O'Keefe's body
14 was found on Brian Albert's lawn at 6:03 that morning?

15 A I believe when I spoke to Lieutenant Tully, he
16 told me around 6:30.

17 Q Okay. Well, let's go with 6:30 then. So when
18 you received the call from Lieutenant Tully, snow would
19 have been accumulated from 6:00 a.m., I'm sorry, 6:30
20 a.m. approximately to approximately 2:30 p.m., correct?

21 A Yes, sir.

22 Q And so snow had been accumulating at that
23 point when you first got the call for about eight hours
24 after the body was found, correct?

25 A Correct, sir.

1 Q Now, before you conduct a search, is it
2 important for you to know in general terms the working
3 theory of the police and the investigators in terms of
4 what had happened at the scene?

5 A It's not. I want as detailed information on
6 what we are looking for. As far as the investigation
7 is concerned, that's not interesting to -- I'm not
8 interested in those exact specifics. I just want to
9 know where you would like us to search and what you
10 need us to find.

11 Q Right. But, in order to know what you were
12 seeking to find, you'd need to learn from the
13 investigators what they believed happened that would
14 leave that evidence, correct?

15 A Correct, sir. He told us we were looking for
16 pieces of taillight from a vehicle.

17 Q All right. You'd also want to know prior to
18 getting to the scene who had access to the scene before
19 you got there, would you not?

20 A I did not even know that information, no, sir.
21 And I did not ask that.

22 Q All right. Is it important to maintain the
23 integrity of a crime scene before it is searched or
24 processed?

25 A Sometimes. But a lot of times when we're

1 involved in searches, we might not be out for days
2 later. If search efforts have been exhausted and they
3 don't think any evidence can be recovered, we will go
4 out to scenes that have been left unsecured for days on
5 end.

6 Q Sure. I understand that, but that wasn't my
7 question. My question was is it important to maintain
8 the integrity of a crime scene before it's searched or
9 processed?

10 A No. You can leave it unattended if you don't
11 believe it will be disturbed or anything will be taken,
12 sir.

13 Q Is it preferable to leave a crime scene
14 unattended prior to searching it?

15 A I think they would have searched it before we
16 arrived, sir.

17 Q Again, I'm going to ask, if you would, please
18 just respond to my question.

19 A What my preference would be, sir, yes. I
20 would prefer that it's secured.

21 Q Okay. That wasn't very difficult, was it?

22 A I apologize.

23 MR. LALLY: Objection, Your Honor.

24 THE COURT: No comments.

25 MR. YANNETTI: Yes, Your Honor.

1 BY MR. YANNETTI:

2 Q At the time that Lieutenant Tully first called
3 you, were you aware that no one from law enforcement
4 was controlling that crime scene?

5 MR. LALLY: Objection.

6 THE COURT: I'll allow it.

7 THE WITNESS: I was not aware of that. No,
8 sir.

9 BY MR. YANNETTI:

10 Q Were you aware at that time that no one had
11 been controlling it for about six or seven hours before
12 you were called?

13 A I was not aware of that, sir.

14 Q Were you aware that the scene had been
15 abandoned by the police and investigators at about 7:50
16 in the morning?

17 MR. LALLY: Objection.

18 THE COURT: I'll allow it.

19 THE WITNESS: I was not aware of that, sir.

20 BY MR. YANNETTI:

21 Q Were you aware that the scene was left open to
22 the public for hours before you were asked to search?

23 A I was not aware of that.

24 Q In any case, when you got there, there was
25 only one trooper on scene, and that was a trooper from

1 your unit?

2 A Correct.

3 Q Beausoleil?

4 A Correct.

5 Q Nobody else was guarding the crime scene at
6 that point, correct?

7 A There was not.

8 Q In fact, at that point, did you know where
9 specifically on the property you were going to be
10 searching?

11 A I did not.

12 Q And, in your experience, is it proper
13 procedure in an investigation that requires a search
14 for law enforcement to give up control of the area that
15 will be searched?

16 A It's not unusual for us to respond to scenes
17 like that, sir.

18 Q It happens, but is it proper procedure, sir,
19 to give up control of an area to be searched prior to
20 the search?

21 A If they don't think anything will be
22 recovered in the meantime, sir, it's something we
23 encounter all the time on our searches.

24 Q So in this case, is it your testimony then
25 that the investigators didn't think that anything would

1 be recovered?

2 MR. LALLY: Objection.

3 THE COURT: I'll sustain the objection.

4 BY MR. YANNETTI:

5 Q Well, you recorded that there was a second
6 alert regarding this case at 2:53 p.m., correct?

7 A That was the initial alert, sir.

8 Q Well, the initial -- well, maybe we are
9 getting into semantics here. But you were first
10 notified at 2:32 p.m. by Lieutenant Tully, correct?

11 A That's him calling me. The 2:53 alert is sent
12 out to my full team.

13 Q Okay. That 2:53 alert is the second time that
14 you are receiving information about this case, right,
15 the first being 2:32 from Lieutenant Tully?

16 A No. That's not new information. That's me
17 taking the information received from Lieutenant Tully
18 and sending it out to the rest of my team. Like I say,
19 we're not aware of the circumstances yet.

20 Q So you were the one to end out that second
21 alert or that alert --

22 A A west team supervisor, because I was going to
23 start clearing my driveway. So I reached out to a west
24 team supervisor, and he sent out that alert.

25 Q And who was that?

1 A That was then Sergeant, now Lieutenant
2 Simpson.

3 Q And the alert that Sergeant Simpson sent out
4 was an instruction for members of your team to begin
5 clearing off their cruisers and their driveways to get
6 ready to go, correct?

7 A That was an availability alert, to see who
8 would be available to respond.

9 Q And that they should begin clearing off their
10 cruisers and driveways, correct?

11 A Yes, so they would be able to respond.

12 Q All right. But your team was still not
13 activated at that point, correct?

14 A Correct.

15 Q In fact, Sergeant Simpson explicitly wrote in
16 that alert, quote, "We do not have the green light
17 yet," end quote, correct?

18 A Correct, sir.

19 Q Sergeant Simpson at 2:53 p.m. in that alert
20 actually typed it in twice that your team did not have
21 the green light, correct?

22 A Correct. It's a voice-generated response. It
23 will normally duplicate the instructions so as they
24 listen to it if they miss it the first time through,
25 they can hopefully hear it clearly the second time

1 through.

2 Q Okay. And it was very clear that you didn't
3 have the green light from that alert, correct?

4 A Correct. So we weren't authorized to respond
5 yet.

6 Q Okay. Now, you stated that you were in
7 Massachusetts at the time you were first contacted,
8 correct?

9 A Yes, sir.

10 Q And how far were you from Canton?

11 A Normally it would be about a 20-minute ride.

12 Q All right. With the blizzard conditions,
13 however, it took you longer than that?

14 A Forty-three minutes, sir.

15 Q Now, you're familiar with the SERT
16 administrative journal extract?

17 A The daily journal, sir?

18 Q Yes.

19 A Yes, sir.

20 Q All right. That recorded -- and, when I say
21 "that," I mean -- you called it the daily journal?

22 A Yes, sir.

23 Q All right. I'll call it the daily journal.
24 That daily journal recorded the initial contact that
25 you had with Lieutenant Tully at 2:32 p.m., correct?

1 A Yes. That was entered into the daily journal.

2 Q And then the second entry was the 2:53 p.m.
3 alert that was sent out by Sergeant Simpson, correct?

4 A I'm not sure if that's in the daily journal or
5 not, but that would be the alert, sir.

6 MR. YANNETTI: May I approach the witness,
7 please?

8 THE COURT: Yes.

9 MR. YANNETTI: Your Honor, I'd like to hand
10 the witness this document and leave it there. I
11 have an extra copy. I have no problem with him
12 referring to it.

13 BY MR. YANNETTI:

14 Q Once you've had a chance to review that,
15 Lieutenant, if you would look up at me when you're
16 done.

17 A All set, sir.

18 Q So you'd agree with me that the 2:32 p.m.
19 phone call with Lieutenant Tully is in the daily
20 journal, correct?

21 A Yes, it is.

22 Q And the 2:53 p.m. alert by Sergeant Simpson is
23 also in the journal, correct?

24 A Yes, it is.

25 Q Both of those have a timestamp, do they not?

1 A They do, sir.

2 Q What is the next entry on that journal?

3 A It says (as read), "SERT activated. En route
4 to Canton."

5 Q Now, there is no time entry next to that --
6 I'm sorry. No time is entered next to that entry,
7 correct?

8 A There is not, no.

9 Q The previous alert said only to clear the
10 vehicles and driveways, essentially, right, to check on
11 availability?

12 A Correct, sir.

13 Q So the time that your team is alerted was
14 entered in the journal, but there is no time entered in
15 this journal as to when you were dispatched, correct?

16 A Correct, sir.

17 Q But you have a memory of after that
18 2:53 p.m. alert sent out by Sergeant Simpson that
19 Lieutenant Tully called you back about an hour later?

20 A It's not a memory, sir. Our alert for the
21 team to respond is timestamped at 3:48 p.m.

22 Q Okay. And that was Sergeant Simpson that
23 recorded that, correct?

24 A Correct, sir.

25 Q But that's not in the daily journal, correct?

1 A No. That's in the health and homeland alert
2 network which records all our alerts that get sent out.
3 And that was timestamped at 3:48.

4 Q 3:48. Okay. Now, other than authorization
5 that would have been obtained after the 2:53 alert, did
6 you ever ascertain what else changed on the part of the
7 Norfolk State Police Detective Unit that allowed you
8 now to have the green light?

9 A Once I reached out -- once I was done cleaning
10 my driveway off, which took a significant amount of
11 time, I spoke to my captain. He said we were approved
12 through our chain of command. And that's when either I
13 contacted Lieutenant Tully or he called me. He said he
14 was approved through his chain of command to include
15 the deputy superintendent, who was authorizing a
16 response. There's several layers of the chain of
17 command that have to approve a response for numerous
18 reasons, staffing reasons. Again, I said some of my
19 team members aren't full-time members. Some of them I
20 have to pull off their assignments. So if they're on
21 patrol, I'll be -- so they take that into
22 consideration, overtime consideration, safety
23 consideration and now additional members driving
24 through the weather to respond. So that all gets
25 discussed at levels above us.

1 Q All right. That answer applied to strictly
2 issues regarding authorization on both ends, correct?

3 A Yes, sir.

4 Q All right. You recall my question, which was
5 other than authorization, did you learn what, if
6 anything had changed in that time period from 2:53 p.m.
7 to 3:48 p.m. on the part of the Norfolk State Police
8 Detectives Unit?

9 A No, sir. We just talked about the
10 authorization process.

11 Q So sometime shortly before 4:00 o'clock --
12 you're talking about 3:48 being the alert authorizing
13 you to depart. Sometime before 4:00, Sergeant Simpson
14 informed your team to start heading to Canton and to
15 report to you, correct?

16 A Correct, sir.

17 Q That meant that team members should basically
18 stop what they are doing, the ones who are going to be
19 going, get their gear ready, suit up, get in a car and
20 start driving to Canton to meet up with you, correct?

21 A Correct, sir.

22 Q And we've already discussed that on this
23 particular day with blizzard conditions and the roads
24 as they existed, that would obviously take more time
25 than it would on a clear, sunny day, correct?

1 A Correct, sir.

2 Q And I believe your estimation is maybe about a
3 20-minute drive in good weather, with good roads versus
4 the 43 minutes it actually took you to get there,
5 correct?

6 A Correct.

7 Q Now, the seven members of your team who did
8 show up were Bearden, Beausoleil, Carriere, Luise,
9 O'Brien, you and Viscardi, correct?

10 A Correct, sir.

11 Q You all arrived at about the same time, sir?

12 A No. We had a pretty significant difference
13 between arrival times.

14 Q Okay. Is there something called a personnel
15 status report that records arrival times, sir?

16 A No. It doesn't record arrival times. We just
17 enter who is responding. We use our Geotab, which is
18 our vehicle locator, to determine arrival times.

19 Q So is it your testimony that the personnel
20 status report does not record the date and time that
21 somebody arrived on scene?

22 A No. That's all manually entered, sir.

23 Q Do you deny that the personnel status report
24 in this case recorded the date and time of each of
25 those officers that I just mentioned who came on scene?

1 A It has who arrived on scene. Yes, sir.

2 Q But it doesn't just say who arrived on scene.
3 The personnel status report says when they arrived on
4 scene, correct?

5 A Yeah. It's whenever they would have been
6 entered into the system, but that doesn't mean they
7 were officially on scene yet.

8 Q But, again, that's not what the document says,
9 right? It doesn't say we're entering this into the
10 system because they are arriving. The document says,
11 on scene. And it gives a date and time; does it not?

12 A Yes, it does, sir.

13 Q All right. Now, your testimony is -- oh, and
14 by the way, the personnel status report, you'd agree
15 with me, has everybody except for you and Beausoleil
16 showing up at 5:00 p.m. on January 29th of 2022; does
17 it not?

18 A Yes, it does, sir.

19 Q And it has you and Beausoleil showing up five
20 minutes before that at 4:55 p.m. on January 29th,
21 correct?

22 A Correct.

23 Q But it's your testimony that when you got
24 there, it was just you and Beausoleil, correct?

25 A Correct, sir.

1 Q Which actually would be consistent with the
2 personnel status report, right?

3 A Yes, sir.

4 Q Because that has you two showing in first, as
5 well, right?

6 A Yes, sir.

7 Q And then your testimony is that other members
8 didn't show up until between 5:20 and 5:24 p.m.?

9 A Trooper Bearden arrived at 5:21. Sergeant
10 Luise and Sergeant O'Brien arrived at 5:24. Trooper
11 Viscardi showed up 5:34. Sergeant Carriere showed up
12 at 5:41.

13 Q Okay. And so the last member of your team,
14 which is -- Carriere?

15 A Carriere. Correct, sir. 5:41.

16 Q He showed up at 5:41 and now your team was all
17 there, correct?

18 A Yes, sir.

19 Q So is it your testimony that you did not meet
20 up as a team somewhere and head to 34 Fairview? You
21 all arrived individually?

22 A That's correct, sir.

23 Q Did every single trooper who arrived have
24 their own cruiser?

25 A Yes, they did, sir.

1 Q All right. Now, you would agree with me that
2 when Lieutenant Tully first contacted you at 2:32 p.m.,
3 it was still daytime, correct?

4 A Yes, it was.

5 Q So it was light out, correct?

6 A Yes, sir.

7 Q You'd agree with me that at around 5:00
8 o'clock on this late January day in Massachusetts, it
9 was dark out by the time you got there, correct?

10 A Yes, it was.

11 Q So when you finally arrived on scene after
12 your team getting the green light, it was dark for the
13 start of your search, correct?

14 A Yes, it was.

15 Q When you got there, you set up a command post?

16 A Well, if you could call my cruiser a command
17 post, sure, sir.

18 Q Well, I didn't use the term "command post,"
19 sir, did I?

20 A You did not.

21 Q Who used it first?

22 A We marked my cruiser as a command post on the
23 map, sir.

24 Q Okay. All right. And a command post is a
25 base of operations at the scene, correct?

1 A Yes, sir.

2 Q And you parked your cruiser basically in front
3 of the driveway at 34 Fairview to serve as the command
4 post?

5 A Yes. The right side of the driveway, yes,
6 sir.

7 Q And you were initially facing away from the
8 flagpole when you did that?

9 A Yes, sir.

10 Q Which would mean that your cruiser was parked
11 technically on the wrong side of the street, facing
12 Cedarcrest, because you were against 34 Fairview?

13 A Correct, sir.

14 Q And then ultimately turned it around?

15 A Yes. Myself and Trooper Beausoleil moved our
16 vehicles.

17 Q All right. And you initially parked there in
18 part because you wanted to keep the area where you were
19 searching clear of vehicles, correct?

20 A Yes, sir.

21 Q And that was where you met, at the -- we'll
22 call it a command post because you did, your cruiser.
23 That was where you met to discuss the parameters of the
24 search?

25 A Until Detective Lieutenant Tully arrived on

1 scene, that's where we spoke.

2 Q Okay. And you would agree with me that it was
3 Lieutenant Tully from the Norfolk State Police
4 Detectives Unit who told you where to look and what to
5 look for, correct?

6 A Correct. He told us the area he thought would
7 be the best probability to find what we were looking
8 for.

9 Q In addition to your team, the seven of you,
10 you noted that there were five other officers on scene
11 at various points, correct?

12 A I believe it was about five, sir.

13 Q They were all in uniform?

14 A They were not.

15 Q Some were in plainclothes?

16 A They were.

17 Q And you didn't know who those five other
18 officers were, correct?

19 A I only recognized two of them, sir.

20 Q So the other three, you didn't know if they
21 were state police or Canton Police?

22 A Correct, sir.

23 Q At that point, were you made aware that the
24 Canton Police had been conflicted out of this
25 investigation?

1 A I had not, no, sir.

2 Q All right. Now, Lieutenant Tully directed you
3 to an area where he said that John O'Keefe's body was
4 found, correct?

5 A He directed us to where he believed the
6 vehicle involved had been parked and to where the
7 victim's body was recovered.

8 Q All right. So again, in answer to my
9 question, he did direct you to an area where he
10 believed the victim's body was found, correct?

11 A Yes, sir.

12 Q And he told you that he believed that the
13 victim officer was hit and dragged by a motor vehicle,
14 correct?

15 A Yeah. I believe he might have said possibly
16 dragged.

17 Q All right. But, in terms of your paperwork on
18 the case, there is something called a final mission
19 report, correct?

20 A Yes, there is, sir.

21 Q And what is the final mission report?

22 A That's just a brief summary of the actions
23 conducted by SERT during our assignment.

24 Q And, with regard to -- just going back for a
25 second with regard to those five officers, you

1 mentioned that you recognized two of the five officers
2 that were in plainclothes at the scene?

3 A Correct, sir.

4 Q And what departments were they from?

5 A The only two I recognized were from the state
6 police.

7 Q Okay. Now, getting back to the final mission
8 report, you called it a brief summary of what you had
9 done with regard to the search, correct?

10 A Yes, sir.

11 Q Just because it's brief doesn't mean that it
12 should be inaccurate, correct?

13 A Correct, sir.

14 Q It's important with regard to anything that
15 you submit on this case that you be as accurate as
16 possible, correct?

17 A Yes, sir.

18 Q And you try to be, correct?

19 A We do our best, sir.

20 Q Right. And there is an entry -- well, there
21 are six different categories or, I should say, seven
22 different categories on the final missing report, the
23 first being the mission name which you entered as the
24 Canton evidence search, correct?

25 A Yes, sir.

1 Q And that was accurate? An evidence search
2 occurred and it occurred in Canton, correct?

3 A Yes, sir.

4 Q And you also put the date and time of the
5 first call, and you entered that as January 29th of
6 2022 at 2:32 p.m., correct?

7 A Yes, sir.

8 Q And that was accurate because you've testified
9 that's when Lieutenant Tully contacted you, correct?

10 A Yes, sir.

11 Q And there is an entry or a question or a box
12 that says "General Terrain." And you entered that as
13 neighborhood snow-covered street and front law,
14 correct?

15 A Correct, sir.

16 Q And that was accurate, right?

17 A Yes, sir.

18 Q And, in terms of incident type, you entered
19 evidence search, correct?

20 A Yes, sir.

21 Q And that was accurate, correct?

22 A Yes, sir.

23 Q And then there is a final mission report that
24 talks about your mission and starts with, you know,
25 seven SERT members. And that's the SERT team, right?

1 A Yes, sir.

2 Q Seven SERT members responded to the scene.
3 And it talks about, you know, the snow in the area,
4 where the victim's body was found. The plows hadn't
5 cleared the street, et cetera, et cetera. That
6 paragraph is accurate, as well, correct?

7 A Yes, it is, sir.

8 Q And then there is a final mission report by,
9 and it gives your name, Lieutenant Kevin O'Hara. And
10 it has your accurate badge number, which is 3042,
11 correct?

12 A Yes, sir.

13 Q All right. Everything that we've just
14 discussed in terms of what you put in your final
15 mission report was entered accurately, correct?

16 A Yes, sir.

17 Q And the final category is general description
18 of mission. And would you agree with me that you
19 entered (as read), "The off-duty officer was hit and
20 dragged by a vehicle at approximately 12:30 a.m."

21 A I don't remember exactly how it's worded, sir.
22 If I could look at it?

23 MR. YANNETTI: May I approach, Your Honor?

24 THE COURT: Yes.

25 THE WITNESS: All set, sir.

1 MR. YANNETTI: If I may approach?

2 THE COURT: Yes.

3 BY MR. YANNETTI:

4 Q Lieutenant, having read that portion of the
5 final mission report, is your memory refreshed?

6 A Yes, it is, sir.

7 Q And did you enter in there (as read), "The
8 off-duty officer was hit and dragged by a vehicle at
9 approximately 12:38 a.m."?

10 A Yes, I did, sir.

11 Q All right. Now, with regard to the area that
12 -- or I should say Lieutenant Tully's direction to you
13 to search the area where the victim's body was found,
14 Lieutenant Tully never informed you that he was
15 actually present and saw the victim's body in that
16 spot, did he?

17 A He did not. No, sir.

18 Q Did you mark the place where John O'Keefe's
19 body was found with GPS coordinates?

20 A We did not. He was no longer on the scene,
21 sir. So I think it would have been not 100 percent
22 accurate.

23 Q You also mentioned that Lieutenant Tully
24 directed you to the area where the SUV had been parked,
25 correct?

1 A To where the vehicle was believed to have been
2 parked. Yes, sir.

3 Q At that time, did you know it was an SUV or
4 not?

5 A I did not, sir.

6 Q All right. But, in any case, Lieutenant Tully
7 didn't tell you that he ever saw the vehicle parked in
8 the area to which he directed you, correct?

9 A He did not say that he saw it there. No, sir.

10 Q So Lieutenant Tully told you to look for a
11 man's sneaker, correct?

12 A That was one of the items missing. Yes, sir.

13 Q And he told you to look for red and clear
14 plastic pieces of taillight, correct?

15 A He just said taillight. He didn't say red,
16 clear taillight pieces.

17 Q Did Lieutenant Tully give you approval not
18 just to search outside the house but also inside the
19 house?

20 A No. We never discussed searching inside the
21 house, sir.

22 Q And you had mentioned during your testimony
23 that you confirmed that the homeowner was there, right,
24 because he came out of the house at one point?

25 A I don't know if it was the homeowner, but an

1 adult male exited the house while we were there, sir.

2 Q Sure. And he appeared to live at that home,
3 correct?

4 A Yes.

5 MR. YANNETTI: If I may just have a moment.

6 (Whereupon, there was a brief pause.)

7 BY MR. YANNETTI:

8 Q All right. Now, with regard to the area that
9 you were searching, you would agree with me that
10 Lieutenant Tully was the one who directed you where to
11 search and what to search for, correct?

12 A He gave us the best idea for the search area.
13 Yes, sir.

14 Q All right. And it was based on his direction
15 that you created a grid and began your search?

16 A He told us where he believed the vehicle was
17 parked and where the victim's body was found. And I
18 decided how far of a distance we would search.

19 Q Okay. So that's another way of saying it was
20 based on his direction that you created a grid and
21 began your search, correct?

22 A I based it off of the information he provided.
23 Yes, sir.

24 Q So the answer is "yes"?

25 A I guess so, sir.

1 Q This was the first time that you and your team
2 have done a search in the snow, correct?

3 A Not for evidence. We had never done a search
4 like this before. Just for missing person searches.

5 Q I see. But, in any case, you've been trained
6 to search winter crime scenes that have snow, correct?

7 A Correct, sir.

8 Q There are proper techniques for conducting
9 such searches during or after a snowfall, correct?

10 A Yes. We have best practices we use.

11 Q I'm sorry. I didn't hear.

12 A Yes. We have best practices we use, sir.

13 Q Of course. Best practices would include
14 documenting the scene and the area to be searched with
15 photographs and diagrams, correct?

16 A Yes, sir.

17 Q It would also include using, you know, gentle
18 methods to remove snow, correct?

19 A Yes. The best way you can, yes, sir.

20 Q That might include, you know, smaller hand
21 tools, brushes, gloved hands?

22 A Only if you would have a real small area.

23 Q It would include removing snow layer by layer
24 and then sifting it and documenting evidence again for
25 each layer that's removed?

1 A Yeah. I believe that's how we went through
2 it, sir. We went slowly, methodically in sifting
3 through the snow as we progressed down the area.
4 Correct.

5 Q Sure. And best practices would mean
6 documenting by photographs along the way the progress
7 of your search, would it not?

8 A That would be up to the detectives or the
9 crime scene unit, sir.

10 Q Well, but you were the one who was making
11 those decisions, correct?

12 A Not for documentation purposes, no. That's
13 not our responsibility, sir.

14 Q But you would agree with me that it would be
15 advisable to document your search in that way, would it
16 not?

17 A That would be at the discretion of the
18 detectives, sir.

19 Q Okay. Well, would it harm your search in any
20 way to fully document it along the way?

21 A It would not harm it. No, sir.

22 Q You want to take your time and work
23 methodically and thoroughly in the search, correct?

24 A Correct, sir.

25 Q And you want to collect evidence as it's

1 located and immediately photograph it in place before
2 it's disturbed, correct?

3 A As evidence is discovered, it will get
4 photographed in place. Yes, sir.

5 Q During your search in this case, your team
6 found a sneaker and pieces of red and clear plastic,
7 correct?

8 A Correct, sir.

9 Q The evidence that you found was basically on
10 top of each other, within a few inches of each other,
11 correct?

12 A Within a foot or two, a couple feet. Yes,
13 sir.

14 Q Well, you testified at a prior proceeding in
15 this matter; did you not?

16 A I did, sir.

17 Q And you were sworn to tell the truth during
18 that prior proceeding, as well; correct?

19 A Yes, sir.

20 Q And that testimony was closer in time to the
21 search that you conducted on January 29th than today
22 is, correct?

23 A Yes, it was, sir.

24 Q And your memory would have been better then
25 than it is today, correct?

1 A Probably, sir.

2 Q You were asked the question, quote (as read),
3 "And, as far as the red and clear glass you believed
4 consistent with the taillight, was that found in the
5 same area as the sneaker or somewhere else?"

6 Do you recall that question?

7 A I believe being asked that question. Yes,
8 sir.

9 Q And your answer was (as read), "Same area.
10 Within a few inches, less than a foot," correct?

11 A Correct, sir.

12 Q Now, you mapped out GPS coordinates for what
13 you found?

14 A One of the team members did. Yes, sir.

15 Q Your team did?

16 A Yes, sir.

17 Q And Lieutenant Tully from the Norfolk State
18 Police Detectives Unit was present during the search,
19 correct?

20 A Yes, he was.

21 Q And he was the one that was photographing the
22 items that were found?

23 A Yes, he did.

24 Q So I'd like to ask you a few questions about
25 your observations about where these items were found in

1 relation to each other.

2 Was there a piece of red plastic located on
3 the roadway left of the flagpole when you look at the
4 house from the street?

5 A Left of the flagpole. Yes, sir.

6 Q All right. Now, given your testimony about
7 these items essentially being in the same area less
8 than a foot away from each other, it could not be true,
9 then, that from that red piece of plastic that was
10 found in the street that three feet south of that was a
11 black Nike sneaker found under the snow? That couldn't
12 have happened, correct?

13 A Well, I don't know the distance between the
14 objects as far as the mapping purposes, sir. But, as
15 far as how far apart, the first thing we discovered was
16 one red piece of plastic. And then further south,
17 that's when we found the sneaker and additional pieces.

18 Q Right. But, again, they were all in the same
19 area, less than a foot apart, correct?

20 A The same general area, sir. But it could have
21 been over a foot, sir. I'd have to measure between the
22 GPS markings.

23 Q Okay. Well, so is your testimony today that
24 what you testified to in that prior proceeding where
25 everything was less than a foot apart, that wasn't

1 accurate?

2 MR. LALLY: Objection.

3 THE COURT: I'll allow it. Is that your
4 testimony, sir?

5 THE WITNESS: Best recollection, that they
6 were close, within a foot. But, to be 100 percent
7 accurate, you would have to measure between the two
8 GPS points, which I have not done.

9 BY MR. YANNETTI:

10 Q Sure. But, if your estimate is they were --
11 you didn't even say a foot. You said less than a foot,
12 correct?

13 A I believe that's what you read, around a foot.
14 Yes, sir.

15 Q Which is what you testified to, correct?

16 A Correct, sir.

17 Q So if it's less than a foot, by definition,
18 the sneaker couldn't have been found three feet south
19 of where that red piece of plastic was, correct?

20 A Again, I don't know if that's accurate, sir.

21 Q You don't know if what's accurate?

22 A Where you're saying three feet. I don't know
23 if that's accurate, sir.

24 Q No. That's what I'm asking you. Is it
25 accurate?

1 A Oh, I don't know, sir. I'm not sure of the
2 exact distance. I didn't measure the GPS markings,
3 sir. And I didn't know where you came up with that
4 number three feet, sir.

5 Q I'm just asking questions.

6 A Okay.

7 Q I'm just asking questions. All right. So
8 with regard to -- let's assume for a moment that the
9 sneaker was found three feet south of that first red
10 piece of plastic. From your observations, was there a
11 clear piece of plastic that was found a few feet south
12 of that black sneaker?

13 A There was a piece of clear plastic found just
14 past the sneaker.

15 Q A few feet south of the sneaker?

16 A I don't know where you're getting that from,
17 sir.

18 Q Again, you don't have to like worry where my
19 questions are coming from --

20 THE COURT: Mr. Yannetti, no comments.

21 MR. YANNETTI: Sure.

22 THE COURT: Next question.

23 BY MR. YANNETTI:

24 Q I'm just asking a factual question. You were
25 there. I was not.

1 THE COURT: Mr. Yannetti, just questions.

2 MR. YANNETTI: Yes.

3 BY MR. YANNETTI:

4 Q Was a clear piece of plastic found a few feet
5 south of the black sneaker which was found three feet
6 south of the red piece of plastic? Did that happen?

7 A I don't know the distance, sir, no, not
8 without measuring it. But I wouldn't think it was that
9 far of a distance. They were much closer than that.

10 Q Right. I mean, you say you don't know the
11 distance but you testified to what the distance was in
12 that prior proceeding; did you not?

13 MR. LALLY: Objection.

14 THE COURT: Next question.

15 MR. YANNETTI: All right.

16 BY MR. YANNETTI:

17 Q And then, moving along, we have the red piece
18 of plastic; three feet south, black sneaker; a few feet
19 south, clear plastic. And, finally, several feet south
20 of that clear piece of plastic, was there a second
21 piece of red plastic found, several feet south?

22 A No. Again, I don't agree with your
23 description of it.

24 Q All right. So we will agree that, you know,
25 one piece of red plastic; three feet south, sneaker; a

1 few feet south, clear piece of plastic; and then
2 several feet south, more red plastic. That didn't
3 happen, correct?

4 A I don't agree on those distances. No, sir.

5 Q No. Okay. Now, you testified that these
6 items were buried under some snow, correct?

7 A Correct, sir. They were under snow.

8 MR. YANNETTI: May I have those exhibits,
9 please?

10 Could I display Exhibit 113, please, Your
11 Honor?

12 THE COURT: All right. A juror needs to take
13 a break.

14 MR. YANNETTI: Oh, sure.

15 THE COURT: Why don't we have this be our
16 morning recess, folks. We'll take about a 15-, 20-
17 minute break.

18 (Whereupon, the jury is escorted from the courtroom
19 and a brief recess is taken.)

20 (Court resumes.)

21 (Defendant present. Jury present.)

22 THE COURT: Mr. Yannetti, you can continue.

23 MR. YANNETTI: Thank you, Your Honor.

24 BY MR. YANNETTI:

25 Q Lieutenant O'Hara, you testified on direct

1 examination that you collected six or seven pieces of
2 plastic, correct?

3 A I believe that's what we found. Yes, sir.

4 Q Would you agree with me that it's important to
5 be precise in your investigation and your search?

6 A Yes. That's why Lieutenant Tully took an
7 evidence log, sir.

8 Q All right. So as you testified here today,
9 two and a half years later, can you tell the jury
10 whether it was six or seven of the pieces of plastic
11 that you actually found?

12 A I've never seen the evidence log from that
13 night, sir. So I'm not sure exactly how many he
14 recovered. Again, I was partaking in the search. So
15 I'm not sure what the exact number is, sir.

16 Q And you would agree with me that you only
17 mapped three of them on the map that was introduced
18 here at trial, correct?

19 A Correct.

20 Q And, again, that was because the pieces were
21 essentially on top of each other, correct?

22 A Correct. As you would mark them on the GPS,
23 they were marking almost directly on top of each other,
24 and I knew that was going to --

25 Q They certainly were not being marked feet away

1 from each other, several feet, correct?

2 A No, sir.

3 Q And you are aware that Lieutenant Tully
4 photographed five pieces of plastic that day, are you
5 not?

6 A I'm not sure. I've never seen the photos
7 until probably about a week ago, sir.

8 Q In any case, you did say to the state police
9 detective unit at the end of the search that if they
10 wanted you and your team to come back out during
11 daylight hours, you would, correct?

12 A Correct, sir.

13 Q So I'd like to direct your attention to six
14 specific dates, and then I'll ask you a question:
15 February 3rd, February 4th, February 8th, February
16 10th, February 11th and February 18th. Those six
17 dates.

18 And my question is did the lead investigator,
19 Trooper Michael Proctor, ever call you on one of those
20 six dates to come back to the scene to conduct a
21 further search?

22 A No, he did not.

23 MR. YANNETTI: I have nothing further.

24 THE COURT: Okay. Redirect, Mr. Lally?

25 MR. LALLY: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. LALLY:

Q So, Lieutenant O'Hara, with respect to both yourself and Lieutenant Tully as far as being dispatched, that decision comes from above both of your heads with respect to each of your units; is that fair to say?

A That's correct, sir.

Q You were asked some questions about a daily journal. Can you describe for the jury sort of what that is or what kind of information would typically be kept in that?

A That would just be our day-to-day activities. We'll give a quick gist of what we're doing each day. It would be more general. It doesn't get too thorough.

Q You had made mention during your testimony of some other documentation that would be more specific; is that correct?

A Correct, sir.

Q And what would some of those be and how would that be more specific?

A That's a report that gets generated through our mission manager software. So it creates a little bit more detailed response.

Q And are you familiar with an AVL?

1 A I am. Yes, sir.

2 Q And what is an AVL?

3 A It is the Geotab GPS on a cruiser. It's an
4 automatic vehicle locator system.

5 Q And the vehicle that you were operating that
6 day, was that equipped with an AVL?

7 A Yes, it was, sir.

8 Q And is that how you're able to tell the
9 precise time of your arrival on scene?

10 A Correct, sir.

11 Q As well as each member of your unit; is that
12 correct?

13 A Correct, sir.

14 Q Now, as far as the items and where they were,
15 again, I'd just ask, in the photographs that were
16 marked as exhibits before, where the items were when
17 they were located by members of your team and they were
18 photographed as they lay, correct?

19 A Correct, sir. As they were discovered, they
20 were photographed.

21 Q So regardless of inches versus feet versus
22 whatever distance it was, you didn't measure that; is
23 that correct?

24 A We did not. No, sir.

25 Q But, as far as where they were actually

1 discovered or where they were recovered. They were
2 photographed where they were when you found them,
3 correct?

4 A Correct, sir.

5 MR. LALLY: Nothing further.

6 THE COURT: All right, Lieutenant. You are
7 all set, sir.

8 THE WITNESS: Thank you, Your Honor. I
9 appreciate it.

10 (Whereupon, the witness is excused.)

11 THE COURT: All right. Mr. Lally, your next
12 witness, please.

13 MR. LALLY: Yes, Your Honor. The Commonwealth
14 would call Ms. Maureen Hartnett to the stand.

15 Whereupon,

16 MAUREEN HARTNETT

17 having been first duly sworn, was examined and
18 testified under oath as follows:

19 DIRECT EXAMINATION

20 BY MR. LALLY:

21 Q Good morning, ma'am.

22 A Good morning.

23 Q Could you please state your name and spell
24 your last name for the jury?

25 A Maureen Hartnett, H-A-R-T-N-E-T-T.

1 THE COURT: All right. Ms. Hartnett, I'm
2 going to ask you to keep your voice up. Okay?

3 THE WITNESS: Okay. Thank you.

4 BY MR. LALLY:

5 Q And, Ms. Hartnett, what do you do for work?

6 A I am a Forensic Scientist II with the
7 Criminalistics Unit and Crime Scene Response Unit at
8 the Massachusetts State Police Crime Laboratory.

9 Q And how long in total have you been with the
10 Massachusetts State Police Crime Lab?

11 A In total, approximately eight years.

12 Q And I'm going to ask you some questions in
13 just a little bit about your educational background.
14 Where did you go as far as your undergraduate was
15 concerned?

16 A I have a Bachelor of Science in Biology from
17 Bridgewater State University.

18 Q And following receipt of that degree, where
19 did you go from there?

20 A I have a Master of Science in Forensic Science
21 from the University of New Haven.

22 Q And, after you received your master's, where
23 did you go after that?

24 A I was then hired by the Massachusetts State
25 Police Crime Laboratory.

1 Q When you're initially hired -- you mentioned
2 that you're a Forensic Scientist II now; is that
3 correct?

4 A Yes. Correct.

5 Q So when you're initially hired or when you
6 were initially hired at the state crime lab, what was
7 your position and what did that entail?

8 A Are you referring to back in 2004 or my
9 current hire?

10 Q Back in 2004.

11 A In 2004, I was originally hired as a temporary
12 employee in the CODIS unit.

13 Q And what is it that you did there?

14 A I collected blood samples for the DNA
15 database.

16 Q And did you receive any sort of training in
17 regard to that work?

18 A Yes. I was trained on how to properly collect
19 and seal those samples.

20 Q And what did the training sort of consist of
21 in reference to that?

22 A I demonstrated being able to take those
23 collections and properly store them and submit them.

24 Q Now, your current position. What is your
25 position at the crime lab now?

1 A Currently, I'm a Forensic Scientist II in the
2 criminalistics unit and crime scene response units.

3 Q And what is sort of the difference between a
4 Forensic Scientist II versus a Forensic Scientist I?

5 A A Forensic Scientist I is still in training at
6 the crime lab.

7 Q And did you start as a Forensic Scientist I
8 when you came into this particular unit?

9 A Yes, I did.

10 Q And about how long a period or process is it
11 from the time that you start as a Forensic Scientist I
12 before you become a Forensic Scientist II?

13 A It took me approximately nine to 10 months to
14 be signed off to be a Forensic Scientist II.

15 Q And can you explain to the jury sort of what
16 goes on as far as that process is concerned, going from
17 a Forensic Scientist I to a Forensic Scientist II?

18 A During that time period, we are being trained
19 in the various types of analysis that we will perform
20 in the criminalistics unit.

21 Q And what exactly does that training sort of
22 consist of?

23 A The training is broken up into modules which
24 addresses each type of analysis. At the end of each
25 module, we take a written exam, an oral exam and a

1 hands-on practical exam. Once each module is
2 successfully completed, we will move on to the next
3 module.

4 Q And what are your duties as a forensic
5 scientist in the criminalistics unit and crime scene
6 response unit?

7 A In the criminalistics unit, I examine items of
8 evidence submitted by law enforcement personnel or
9 crime scene responders for the presence of biological
10 fluids such as blood, semen and saliva, as well as
11 trace materials such as hairs and fibers. I also
12 perform gunshot residue collection and damage analysis.

13 Q And, with respect to the crime scene response
14 unit?

15 A For the crime scene response unit, I respond
16 to crime scenes. I document crime scenes, analyze or
17 test evidence, preserve the evidence and then transport
18 that evidence back to the crime lab.

19 Q And now with reference to your training and
20 experience specifically in the crime scene response
21 unit, based on your training and experience, what is
22 sort of the definition of what is a crime scene?

23 A A crime scene is any location that may contain
24 evidence related to a crime.

25 Q Now, with regard to those two positions, what,

1 if any, training did you receive with regard to those
2 two units that you're currently in while you were at
3 the lab?

4 A I'm sorry. Are you speaking about the crime
5 scene training specifically?

6 Q Crime scene training, yes. Let me ask you
7 first to start with the criminalistics training.

8 A The criminalistics training. I completed
9 modules on fluid identification such as blood and
10 semen, trace analysis, identification of hairs and
11 fibers, pattern evidence such as blood stain pattern
12 evidence as well as damage analysis.

13 Q And, as far as the training was concerned with
14 regard to the crime scene response unit?

15 A I received training in proper documentation
16 using sketches and diagrams of the scene. I also
17 received training in trace collection at crime scenes
18 as well as gunshot residue at crime scenes.

19 Q Now, the crime lab that you work for, is that
20 lab accredited?

21 A Yes, it is.

22 Q And what does -- as far as accreditation, what
23 does that mean?

24 A Accreditation is a voluntary quality assurance
25 process that the laboratory is a part of where an

1 outside body evaluates our crime lab to ensure that our
2 personnel, procedures, instruments are held to certain
3 scientific standards.

4 Q And the outside sort of vendor or the outside
5 accrediting agency, who is that in regard to the
6 Massachusetts State Police Crime Lab?

7 A Our laboratory is accredited by ANAB, which
8 stands for ANSI National Accreditation Board. And ANSI
9 is another acronym that stands for American National
10 Standards Institute.

11 Q And as far as that accreditation is concerned,
12 how often is that something that your lab undergoes or
13 is there a certain audit process? How is the
14 accreditation achieved?

15 A We are audited, I believe -- I want to say
16 every two years, but I'm not 100 percent sure. They
17 come out to the lab and they go through certain systems
18 or have a certain scope in which they audit us. We
19 also do internal audits, as well.

20 Q And, as far as that accreditation is
21 concerned, is that something that was up to date in the
22 month of January of 2022?

23 A Yes, it was.

24 Q And is it up to date currently, as well?

25 A Yes.

1 Q Now, your work, I believe you just alluded to
2 this as far as your testimony. But does your work go
3 through some sort of review process?

4 A Yes. Every assignment that I complete goes
5 through both a technical review process and an
6 administrative review process.

7 Q Can you explain a little bit about what each
8 of those is and what it means?

9 A A technical review process is done by an
10 independent analyst, either a peer or a supervisor, who
11 will look through my file and determine whether or not
12 they can come to the same conclusions that I came to
13 based on my notes.

14 Q Are you familiar, based on your training and
15 experience within the lab, with something called a
16 proficiency test?

17 A Yes, I am.

18 Q And can you explain to the jury what is your
19 understanding or what is a proficiency test?

20 A Proficiency tests are given in the different
21 types of analyses that we do at the lab to ensure that
22 we are maintaining our competency in that type of
23 analysis.

24 Q And about how often are these administered or
25 how often do you take proficiency tests?

1 A For a biological fluid identification, I take
2 two per year. For trace identification, I take one per
3 year. Excuse me. For crime scene response, I take one
4 per year.

5 Q And these proficiency tests, are they required
6 by the accrediting body, ANAB, that you were referring
7 to?

8 A Yes, they are.

9 Q And did you take a proficiency test in hair
10 and fiber identification in 2022?

11 A Yes, I did.

12 Q And what was the outcome of that proficiency
13 test?

14 A That was successfully completed and required a
15 remediation.

16 Q And can you explain to the jury what
17 remediation is and why this specific proficiency test
18 required remediation?

19 A A remediation occurs when you have an
20 inconsistent answer that is expected by the laboratory
21 or by the test provider.

22 In this particular instance, I had an
23 inconsistent answer with the expected laboratory
24 result.

25 Q And how was the remediation completed in this

1 instance?

2 A After the inconsistent answer was identified
3 by my technical leader, we had a verbal discussion
4 about why I came to the conclusion I did. To be more
5 specific, one item -- each item had two samples. One
6 of the samples for Item 4 I determined that to be a
7 human hair without a root when, in fact, the root was
8 present.

9 We had a discussion on how I came to that
10 conclusion and then she then mounted that hair back on
11 the microscope, and we discussed different ways that I
12 could have come to the correct conclusion.

13 Q And, during that remediation process, were you
14 permitted to continue to perform case work during that
15 time?

16 A Yes, I was. I was permitted to continue to
17 perform case work in hair and fiber identification.
18 However, I was temporarily asked to not perform
19 technical reviews of my peers' work on hair and fiber
20 identification.

21 Q And was prior case work that you had completed
22 evaluated to verify that the previous reports were
23 issued correctly?

24 A Yes, they were.

25 Q And what was the determination in regard to

1 that?

2 A No previous case work was affected by this
3 error.

4 Q And have you since completed additional
5 proficiency tests in hair and fiber identification?

6 A Yes, I did.

7 Q And what were the outcomes of those subsequent
8 proficiency tests?

9 A Those were successfully completed without
10 needing any additional remediation.

11 Q As far as the remediation was concerned, if
12 you could just explain to the jury sort of what the
13 issue was and what that remediation process looked like
14 again?

15 A Sure. So I received four items in hair and
16 fiber identification. Each item was -- told that they
17 came from the same source. Item No. 4 consisted of two
18 items. One was a hair with a root. The other was also
19 a human hair with a root, but I had said the root was
20 absent. That was due to the fact that I didn't see
21 anything like that in the microscope. It was something
22 that was new to me.

23 My technical leader reviewed that hair with me
24 under the microscope. She showed me various
25 characteristics such as a loss of scale pattern and the

1 soft appearance of the root which I thought was damage.
2 Because we had this discussion and I agreed with the
3 different characteristics that she showed me, she then
4 gave me several hairs both with damage and with roots
5 so that I could basically continue to understand the
6 difference of what I was looking at.

7 Once she looked at all my notes and agreed
8 with everything that I had done, she then issued me an
9 additional test to demonstrate my continued competency
10 in this.

11 Q Now, how many criminalistics cases have you
12 processed over your time at the lab?

13 A Over a thousand.

14 Q And how many scenes have you processed in
15 regard to your work with the crime scene response unit?

16 A I've responded to approximately 150 scenes, 80
17 of which I was the lead investigator on.

18 Q And how many exams have you completed with
19 regard to motor vehicles?

20 A Approximately 65.

21 Q Now, if I could ask just a general question as
22 far as blood testing is concerned. How is it that you
23 test for blood?

24 A Normally, I would test for blood by locating a
25 visible red-brown stain or an area that may contain

1 blood. I perform a screening test which is not
2 specific to blood but other items may also come up
3 positive for screening tests. If that screening test
4 is positive, I go on to perform a confirmatory test.

5 Q And, as far as the screening test is
6 concerned, can you explain to the jury sort of what it
7 is that you do in performing that screening test?

8 A The screening test is a two-step process. I
9 take a cotton swab, which I apply sterile water to. I
10 take that cotton swab and apply it to the area that I
11 would like to test, and then I add my two chemicals to
12 the swab. Depending on what type of screening test I
13 perform, there will be a color change, either blue or
14 pink, for blood.

15 Q And, with regard to the confirmatory test, can
16 you explain to the jury sort of what does that consist
17 of?

18 A If the screening test is positive, I'll go on
19 to perform a confirmatory test where an organic cotton
20 swab is applied to the area of interest or I need to
21 get a cutting, depending on what the substance is. I
22 then add a chemical to that cutting or swab, and then
23 the liquid portion is added to a test card, something
24 similar to a -- if you've taken a COVID test or a
25 pregnancy test, the liquid is spotted at one end of the

1 card and it flows up the strip. If there's two lines,
2 it's positive. If there's one line, it's negative.

3 Q And through your training and experience and
4 work with the lab, are you familiar with the term Q-
5 LIM?

6 A Yes, I am.

7 Q And can you explain to the jury what Q-LIM
8 means or how it's applied in your work?

9 A Q-LIM stands for quantity limited, which means
10 that the sample, if it's being sent for, the DNA would
11 not be able to be divided in two. Typically, we divide
12 each sample going forward with DNA into two, one to be
13 tested in our DNA unit and one to be preserved for
14 future testing. If an item is determined Q-LIM, it
15 means that that item, the entire item, will be used up
16 in the DNA processing.

17 Q Now, Ms. Hartnett, if I could turn your
18 attention to February 2nd, 2022. Do you recall that
19 day?

20 A Yes, I do.

21 Q And, on that day, were you dispatched to the
22 Canton Police Department?

23 A Yes, I was.

24 Q Do you recall approximately what time of day
25 it was that you arrived at the Canton Police

1 Department?

2 A I believe it was approximately 9:00 a.m.

3 Q And, when you arrived there, who, if anyone,
4 beyond yourself, from the state police or other sort of
5 personnel was present at the child protection program?

6 A Trooper Proctor, Trooper Dunne and Trooper
7 Clark from crime scene services unit.

8 Q And, at some point subsequent to that, were
9 there other members of the state police that arrived in
10 that area, as well?

11 A Yes.

12 Q And was one of them a reconstructionist named
13 Trooper Paul?

14 A I'm not sure what the name was. I do know
15 that the reconstruction team did come after I arrived.

16 Q Now, where within the Canton Police Department
17 were you directed to go or where did you go?

18 A I was directed to the Canton Police Department
19 garage.

20 Q And, when you got to the garage, what
21 specifically did you observe there and what, if
22 anything, were you asked to do?

23 A I was asked to examine a black Lexus SUV.

24 Q And did you then examine that black Lexus SUV?

25 A Yes, I did.

1 Q And you made certain observations of that; is
2 that correct?

3 A Yes. Correct.

4 Q Now, with respect to your observations that
5 you made of the black Lexus SUV, was that memorialized
6 in any way?

7 A Yes. I took notes as I was examining it.

8 Q And you mentioned Trooper Clark, as well,
9 correct?

10 A Yes. Correct.

11 Q And is he from the crime scene services
12 section within the state police lab?

13 A Yes.

14 Q And what, if anything, was he doing with
15 reference to the black Lexus while you were making your
16 observations or while you were conducting your work?

17 A I believe he was taking photographs. I don't
18 know any other -- I don't know what else he performed
19 while he was there.

20 MR. LALLY: Your Honor, may I approach?

21 THE COURT: Yes.

22 BY MR. LALLY:

23 Q I am showing you a three-page document. I
24 just ask you to look at that and look up when you're
25 finished.

1 A (Witness complies.)

2 Q Do you recognize that document, ma'am?

3 A Yes.

4 Q What do you recognize it to be?

5 A It looks like diagrams that I had taken at the
6 scene. However, it appears to be missing some
7 information.

8 Q So as far as the notes that you took --

9 THE COURT REPORTER: If you could stand at the
10 podium, please? Thank you.

11 BY MR. LALLY:

12 Q Ms. Hartnett, you had taken notes on those
13 diagrams when you were at the Canton Police Station in
14 the garage?

15 A Yes, I did.

16 Q Okay. And that diagram that you have before
17 you does not contain those notes; is that correct?

18 A That's correct.

19 Q Okay. But, as far as the diagrams that you
20 had before you and that you were taking notes on, those
21 are the diagrams or a form of those diagrams?

22 A Yes. That's correct.

23 Q And contained on that is certain information
24 related to the vehicle; is that correct?

25 A Yes. Correct.

1 Q It includes the make, the model, the license
2 plate number; is that correct?

3 A Yes.

4 Q And, if you could, just read from that form as
5 far as what you recorded as far as the make, the model
6 and the license plate number?

7 A The make is a Lexus. The model is LX570. The
8 year was 2021. The registration is Massachusetts (c)

9 The VIN number is (c). The exterior
10 color is black. The interior color is tan. The
11 registrant is Karen Read, and the exam location was
12 Canton P.D. garage.

13 MR. LALLY: May I approach again, Your Honor?

14 THE COURT: Yes.

15 MR. LALLY: The Commonwealth seeks to
16 introduce and admit as the next exhibit.

17 THE COURT: Any objection?

18 MR. JACKSON: No objection.

19 (Whereupon, diagram was entered and marked Exhibit
20 No. 137 in Evidence.)

21 BY MR. LALLY:

22 Q Now, Ms. Hartnett, with reference to the
23 diagram that you took, that you took notes on, do you
24 have a copy of that with you today?

25 A Yes, I do.

1 MR. LALLY: And, Your Honor, with the Court's
2 permission, I would ask that the witness be allowed
3 to take that out just as far as her testimony
4 related to the diagrams?

5 THE COURT: Okay.

6 MR. LALLY: And, with the Court's permission,
7 as well, I would ask if we could display what's now
8 been marked as 137 on the screen?

9 THE COURT: Yes.

10 BY MR. LALLY:

11 Q And, Ms. Hartnett, before you, I believe, on
12 that desk in front of you there should be a laser
13 pointer?

14 A Yes.

15 Q Just click on the button there and point it at
16 the screen if I or anyone asks you to do so with
17 reference to the screen.

18 So, Ms. Hartnett, with reference to what's up
19 on the screen, the top of that first page of diagrams,
20 if you could, using that laser pointer, direct the
21 jury's attention to what you observed and what, if
22 anything, you made note of in reference to your
23 observations of the black Lexus on February 2nd.

24 A In my notes, I have the vehicle was in overall
25 good condition and there was damage noted on the rear

1 passenger side area. That's not viewable in this
2 particular diagram.

3 MR. LALLY: And, Ms. Gilman, if you could
4 scroll down to the bottom?

5 THE WITNESS: This area here.

6 BY MR. LALLY:

7 Q And, as far as the damage that you noted in
8 the right rear passenger area, what was it specifically
9 that you noted?

10 A I noted there was a dent --

11 MR. JACKSON: Objection, Your Honor.

12 THE COURT: Don't read from that. What did
13 you note?

14 THE WITNESS: There was a dent in the trunk
15 door. There were scratches on the rear bumper, and
16 there was a broken taillight.

17 MR. LALLY: And, Ms. Gilman, if I could have
18 the next page, please.

19 BY MR. LALLY:

20 Q Now, from the diagrams that are up on the
21 screen right now, page 2 of what's been marked as 137,
22 if you could, using that laser pointer, direct the
23 jury's attention to each of those observations you made
24 and where they were in relation to the diagram?

25 A The damage to the dent -- the rear door was in

1 this area. The broken taillight was here, and then
2 there were some scratches on the rear bumper, as well
3 (indicating).

4 Q Now, in addition to scratches on the rear
5 bumper on the area of that lift gate in the back, what,
6 if anything, else did you observe sort of within that
7 area of the bumper?

8 A I observed an apparent hair on the rear
9 quarter panel about here (indicating). And I also
10 noted some pieces of glass on the rear bumper. Excuse
11 me. I want to say apparent pieces of glass.

12 Q Now, as far as that word, when you say
13 "apparent hair on the rear bumper," why that
14 terminology? Why do you call it that at that stage
15 when you're in the garage and you're making these
16 observations?

17 A At that time, I noted that it was an apparent
18 hair because I had not done any microscopic observation
19 of the hair.

20 Q And, subsequent to that, did you do that
21 microscopic examination of the hair that you observed
22 in the rear area of that Lexus SUV?

23 A Yes, I did.

24 Q And where was that performed?

25 A That was performed back at the lab.

1 Q So that item was secured by yourself, taken
2 back to the lab and examined microscopically?

3 A Yes. That's correct.

4 Q Now, with reference to what you termed as the
5 apparent glass on the rear bumper, similar to the
6 apparent hair, why is it that you use that terminology
7 when you're first making those observations of it in
8 the garage?

9 A I do not have any confirmation that it was
10 glass. We refer to it as apparent glass and preserve
11 it for the trace unit.

12 Q And, when you say reserve it for the trace
13 unit, if you could, just in general terms, describe to
14 the jury what the trace unit is and what it is that
15 they do as far as their analysis in relation to what
16 you do?

17 A Certain items will be examined in the trace
18 unit for identification. So the criminalistics unit
19 does not examine or perform glass identification. That
20 would be done in the trace unit. They also will look
21 at other items such as plastic and hairs. But I'm not
22 comfortable going into the analysis that they perform.
23 I don't have the details on that.

24 MR. LALLY: Lastly, Ms. Gilman, if I could
25 have the third diagram within that?

1 Q And, again, Ms. Hartnett, what's up on the
2 screen, is that what you have before you as to the
3 third diagram?

4 A Yes.

5 Q Or the third page of the diagram.

6 A Yes.

7 Q And what, if anything, of significance did you
8 note in this area of the diagram?

9 A I noted the items that were located within the
10 vehicle. There were some boxes on the back seat of the
11 vehicle and there was also a package in the vehicle and
12 some clothing and miscellaneous items in the trunk.

13 Q Now, as far as the items that were contained
14 within the trunk, how high up were they? Let me ask
15 you this: As far as the rear window of the trunk area,
16 was there anything obstructing that?

17 A I don't recall at this time.

18 MR. LALLY: Ms. Gilman, you can take that
19 down.

20 May I approach again, Your Honor?

21 THE COURT: Yes.

22 BY MR. LALLY:

23 Q I am going to show you initially a set of 18
24 photographs. I'd just ask you to generally look at
25 those. I'm just going to ask you, generally speaking,

1 if you recognize what is contained therein.

2 A (Witness complies.)

3 Q Ma'am, generally speaking, do you recognize
4 what is depicted in those photographs?

5 A Yes, I do.

6 Q And what do you recognize those to be?

7 A These are photographs of the black Lexus SUV
8 that I examined at the Canton Police Department.

9 Q And what's contained in those photographs, is
10 that a fair and accurate portrayal of what you observed
11 as far as black Lexus on that day, February 2nd?

12 A Yes.

13 MR. LALLY: Your Honor, may I approach?

14 THE COURT: Yes.

15 MR. LALLY: The Commonwealth would seek to
16 introduce and admit as the next exhibit.

17 MR. JACKSON: No objection.

18 MR. LALLY: Your Honor, I don't mean to --

19 THE COURT: Mr. Lally, the court reporter
20 needs to mark them.

21 MR. LALLY: I understand. All I'm asking,
22 Your Honor, is if I may approach just to show a
23 couple more photographs while the court reporter is
24 recording so that the witness may review them?

25 THE COURT: Yes.

1 THE COURT REPORTER: If anyone speaks before
2 I'm done, it won't be on the record.

3 (Whereupon, photographs were entered and marked
4 Exhibits No. 138 through 155 in Evidence.)

5 THE COURT REPORTER: Exhibits 138 through 155,
6 Your Honor.

7 THE COURT: Thank you.

8 MR. LALLY: Your Honor, with the Court's
9 permission, may I --

10 THE COURT: Mr. Lally, you really need to keep
11 your voice up and Madam Witness.

12 MR. LALLY: Yes, Your Honor. And, Your Honor,
13 with the Court's permission, may I publish those
14 photographs that have now been marked for the jury?

15 THE COURT: Yes.

16 MR. LALLY: And, Ms. Gilman, if I could start
17 with 2498.

18 BY MR. LALLY:

19 Q Now, Ms. Hartnett, do you recognize what's up
20 on the screen?

21 A Yes, I do.

22 Q And what do you recognize that to be?

23 A That is a picture of the license plate of the
24 black Lexus SUV.

25 MR. LALLY: And if I could have the next

1 photograph, Ms. Gilman, 2499.

2 Q Again, do you recognize what's up on the
3 screen, Ms. Hartnett?

4 A Yes, I do.

5 Q And what do you recognize that to be?

6 A That is the front end of the Lexus SUV.

7 MR. LALLY: And, Ms. Gilman, the next
8 photograph, 2500.

9 Q And, again, do you recognize what's up on the
10 screen as this Exhibit 140?

11 A Yes, I do.

12 Q And what do you recognize within this
13 photograph?

14 A It is the exterior of the Lexus SUV.

15 Q And as far as the -- this is inside of the
16 garage at the Canton Police Station; is that correct?

17 A Yes. That's correct.

18 Q In addition to the vehicle, is this a fair and
19 accurate portrayal of what the inside of the garage
20 looked like when you were there that day on February
21 2nd?

22 A Yes.

23 MR. LALLY: If I could have the next
24 photograph, Ms. Gilman, 2501.

25 Q And, again, do you recognize what's up on the

1 screen, ma'am?

2 A Yes.

3 Q And which part of the vehicle are we looking
4 at in this photograph?

5 A It looks like the front passenger side of the
6 Lexus SUV.

7 MR. LALLY: The next photograph, Ms. Gilman,
8 2502.

9 Q Do you recognize what's depicted in this
10 photograph, as well?

11 A Yes.

12 Q And which side of the vehicle are we looking
13 at at this point?

14 A The driver's side.

15 MR. LALLY: And, Ms. Gilman, if I could have
16 2505?

17 Q And do you recognize what's in this
18 photograph, Ms. Hartnett?

19 A Yes, I do.

20 Q And what do you recognize this to be?

21 A That's the rear driver's side of the black
22 Lexus SUV.

23 MR. LALLY: And the next photograph,
24 Ms. Gilman, 2506.

25 Q Do you recognize this, as well?

1 A Yes, I do.

2 Q And what do you recognize this to be?

3 A That's the rear of the black Lexus SUV.

4 Q As far as the caution tape that's around the
5 vehicle, is that something that was around the vehicle
6 at the time that you first came into the garage?

7 A Yes, it was.

8 Q Now, from this photograph, 2506, which is
9 Exhibit 145, using the laser pointer before you, if you
10 could draw the jury's attention to the damage that you
11 were talking about or where you observed that located
12 on the vehicle?

13 A There is damage here on the bumper, and there
14 is also damage to the rear door. I think it may be
15 blocked by the caution tape.

16 MR. LALLY: And, Ms. Gilman, if I could have
17 Photograph 2508? So looking now at what's been
18 marked Exhibit 147, Ms. Gilman, if I could ask you
19 to zoom in a little?

20 Q Now, with reference to the damage that you
21 were talking about that may have been blocked by the
22 caution tape in the prior exhibit, do you see that in
23 this exhibit?

24 A Yes, I do.

25 Q And, if you could, again, using the laser

1 pointer before you, draw the jury's attention to where
2 in this exhibit you observed that?

3 A Right here (indicating). It's on the rear
4 door, right underneath the window.

5 Q Now, as far as crime scene response is
6 concerned, when you're doing this kind of examination
7 of a motor vehicle, can you explain to the jury sort of
8 what that process entails and what is it that you're
9 doing over the course of your examination?

10 A I complete an overall visual examination of
11 the vehicle, noting any damage or anything that stands
12 out that should be reported. I then look for any
13 stains or material that is on the vehicle,
14 specifically, any transfer that could have been left
15 behind by a victim.

16 Q And, as far as making those observations,
17 what, if anything, do you then do with regard to those
18 observations that you make from the visual inspection?

19 A I then perform testing on any stains that I
20 note or any areas of interest and then collect anything
21 that needs to be collected.

22 Q Now, with respect to this vehicle and this
23 examination, what is it exactly that you were requested
24 to examine?

25 A I was informed that this vehicle may have been

1 involved in a hit-and-run. So I was requested to
2 examine it for biological material.

3 Q And what, if any, information were you given
4 upon arrival to the Canton Police Department in regard
5 to that vehicle?

6 A I was informed that the victim had scratches
7 on his arm as well as the fact that the car had been
8 towed through a blizzard.

9 Q And did you perform any testing with relation
10 to the vehicle?

11 A Yes, I did.

12 Q And what was that testing that you performed?

13 A I performed blood screening on the low-lying
14 areas of the undercarriage on each side of the tire
15 flap, as well as the edge of the bumper and the exhaust
16 pipe.

17 Q And what were the results of that testing that
18 you performed there in the garage?

19 A Those were negative.

20 Q And what, if any, evidence did you collect
21 either from the vehicle or from any other source while
22 you were at the Canton Police Station that day?

23 A I collected the apparent glass from the rear
24 bumper. I collected a paint standard from the area of
25 damage on the rear door. I also collected a paint

1 standard from the area of damage on the rear bumper as
2 well as the apparent hair from the rear quarter panel,
3 and I collected the taillight housing from the vehicle.

4 Q Turning away from that just for a moment --

5 MR. LALLY: Ms. Gilman, if I could ask for
6 Photograph 2512.

7 Q Ms. Hartnett, directing your attention to the
8 screen at what's been marked as Exhibit 150, do you
9 recognize this?

10 A Yes, I do.

11 Q And what, if anything, of significance in
12 relation to items collected or items that you observed
13 do you observe in this particular photograph?

14 A I observe the apparent glass on the rear
15 bumper.

16 MR. LALLY: Ms. Gilman, if I could have
17 Photograph 2515.

18 Q And, again, up on the screen what's now been
19 marked as Exhibit 1153, do you recognize this?

20 A Yes, I do.

21 Q Now, as far as that area that you were talking
22 about where you recovered what you termed initially in
23 the garage as an apparent human hair, do you see the
24 location of that within this photograph?

25 A Is it possible to zoom in a little bit on the

1 area right next to the right rear taillight?

2 MR. LALLY: Ms. Gilman, would you do that?

3 A To the best of my recollection, it was in this
4 area.

5 Q Now, as far as areas where you observed
6 certain items or where damage is indicated or observed
7 by you, was that later marked in some fashion?

8 A I note the damage in my notes.

9 Q But, as far as on the physical item, itself,
10 is that marked in any way, shape or form?

11 A Yes. I'll use stickers to indicate areas that
12 I would then refer to back in my notes.

13 Q So that second set of photographs that I
14 placed before you when the stenographer was marking
15 those exhibits, do you generally recognize what's
16 depicted in those photographs?

17 A Yes.

18 Q And what do you recognize those to be?

19 A These are pictures of the interior of the
20 black Lexus SUV.

21 MR. LALLY: May I approach, Your Honor?

22 THE COURT: Yes.

23 MR. LALLY: Your Honor, the Commonwealth would
24 seek to introduce and admit these -- it's just four
25 photographs -- as the next exhibits.

1 THE COURT: Is there an objection,
2 Mr. Jackson?

3 MR. JACKSON: No objection to those.
4 (Whereupon, photographs were entered and marked
5 Exhibits No. 156 through 159 in Evidence.)

6 THE COURT REPORTER: 156 through 159.

7 MR. LALLY: Thank you very much.

8 Your Honor, with the Court's permission, I
9 would ask to publish those for the jury, as well.

10 THE COURT: Okay.

11 MR. LALLY: Ms. Gilman, if I could have
12 Photograph 2521.

13 BY MR. LALLY:

14 Q Ms. Hartnett, again, directing your attention
15 to the screen, do you recognize what's now been marked
16 as Exhibit 156?

17 A Yes.

18 Q What do you recognize that to be?

19 A That is the driver compartment of the black
20 Lexus SUV.

21 MR. LALLY: And if I could have, Ms. Gilman,
22 Photograph 2527.

23 MR. JACKSON: Your Honor, may I just have a
24 moment with counsel?

25 THE COURT: Okay.

1 (Whereupon, there was a discussion off the record.)

2 MR. JACKSON: Thank you, Your Honor. I
3 appreciate it.

4 BY MR. LALLY:

5 Q So, Ms. Hartnett, directing your attention to
6 the screen, Photograph 2527 that has now been marked as
7 Exhibit No. 157, do you recognize that, as well?

8 A Yes, I do.

9 Q And what is depicted in that photograph,
10 ma'am?

11 A It's the front seat area of the black Lexus
12 SUV.

13 Q And, specifically, as far as the center
14 console area of that vehicle, is that a fair and
15 accurate portrayal of what you observed inside the
16 vehicle on February 2nd?

17 A Yes.

18 MR. LALLY: And lastly, Ms. Gilman, from this
19 packet if I could have Photograph 2535.

20 Q And, Ms. Hartnett, 2535, which has now been
21 marked as Exhibit 159, do you recognize what's up on
22 the screen there?

23 A Yes, I do.

24 Q And what do you recognize that to be?

25 A That's the interior of the trunk of the black

1 Lexus SUV.

2 Q And is that a fair and accurate portrayal of
3 the interior of the trunk as you observed it in the
4 Canton Police Department garage on February 2nd?

5 A Yes.

6 MR. LALLY: May I approach the witness stand,
7 Your Honor?

8 THE COURT: Yes.

9 BY MR. LALLY:

10 Q Ma'am, showing you another series of nine
11 photographs. Again, I would just ask you to look at
12 those and look up when you're finished. But, really,
13 what I'm going to ask you is do you recognize what's
14 depicted in those.

15 A (Witness complies.)

16 Q Do you recognize what's depicted in those
17 photographs?

18 A Yes, I do.

19 Q And, generally speaking, what's depicted in
20 those nine, set of nine?

21 A These are pictures of the rear passenger area
22 of the black Lexus.

23 MR. LALLY: Your Honor, may I approach?

24 THE COURT: Yes.

25 MR. LALLY: The Commonwealth would seek to

1 introduce and admit as the next nine exhibits.

2 THE COURT: Is there any objection,
3 Mr. Jackson?

4 MR. JACKSON: None, Your Honor. Thank you.

5 THE COURT: Mr. Lally, you really have to keep
6 your voice us.

7 MR. LALLY: I'm sorry?

8 THE COURT: You really have to keep your voice
9 up.

10 MR. LALLY: I apologize, Your Honor.

11 (Whereupon, photographs were entered and marked
12 Exhibits No. 160 through 168 in Evidence.)

13 THE COURT REPORTER: Exhibits 160 through 168,
14 Your Honor.

15 THE COURT: Thank you.

16 MR. LALLY: Thank you very much.

17 Your Honor, with the Court's permission, may I
18 publish portions of this for the jury, as well?

19 THE COURT: Okay.

20 MR. LALLY: Ms. Gilman, if I could have
21 Photograph 2539.

22 Q Ms. Hartnett, what's up on the screen is
23 Photograph 2539 that's now been marked as Exhibit 160.
24 Do you recognize that?

25 A Yes, I do.

1 Q What do you recognize that to be?

2 A That's the rear passenger area of the black
3 Lexus.

4 Q Now, as far as the damage that you observed
5 from the broken taillight, if you could, using the
6 laser pointer before you, direct the attorney's
7 attention to that or what's visible of that in the
8 photograph?

9 A This area here is the broken taillight
10 (indicating).

11 MR. LALLY: Ms. Gilman, if I could have the
12 next photograph, 2540, which is now Exhibit 161.

13 Q Again, Ms. Hartnett, if you could, using that
14 laser pointer, direct the jury's attention to where you
15 observe, if anywhere, in this photograph damage to the
16 right rear passenger taillight?

17 A There is damage in this area here in the rear
18 taillight (indicating).

19 Q From the damage that you observed that
20 essentially wraps around from the back and from the
21 passenger side of the vehicle; is that correct?

22 A Yes. That's correct.

23 MR. LALLY: And, Ms. Gilman, if I could have
24 Photograph 2554.

25 Q Ms. Hartnett, do you recognize what's up on

1 the screen as Photograph 2554, Exhibit 165?

2 A Yes, I do.

3 Q And you were talking before earlier in your
4 testimony about some stickers or some sort of
5 evidentiary marker that you would put on an item that
6 you're examining, correct?

7 A Correct.

8 Q And do you see any of that in this photograph
9 here?

10 A Yes, I do.

11 Q And could you direct the jury's attention
12 using the laser pointer to where you observed that and
13 what, if any, area of damage or what that denotes?

14 A There is a sticker here. I know you can't see
15 it. I don't know if you can zoom in.

16 MR. LALLY: If you could, Ms. Gilman.

17 A There is a letter on the sticker, I believe
18 it's "A," that denotes that there is something there
19 that I was going to collect. And right next to that
20 sticker here is the apparent hair that I noticed.

21 MR. LALLY: Ms. Gilman, if I could have

22 Photograph 2558. My fault. It's 2556.

23 Q Similarly, Ms. Hartnett, do you recognize
24 anything in this photograph with regard to something
25 that you had marked?

1 A Yes. That's the rear bumper of the SUV.

2 MR. LALLY: And, Ms. Gilman, if you could zoom
3 in a little on that placard. Thank you.

4 Q And, Ms. Hartnett, in this photograph, what,
5 if anything, is depicted that you denoted as something
6 to sort of collect or further examine at a later time?

7 A There is pieces of apparent glass here on the
8 bumper.

9 MR. LALLY: May I approach the witness again,
10 Your Honor?

11 THE COURT: Yes.

12 BY MR. LALLY:

13 Q I'm showing you another series of four
14 photographs. If you could just look at those and look
15 up when you're finished.

16 A (Witness complies.)

17 Q Do you recognize what's depicted in those
18 photographs, ma'am?

19 A Yes, I do.

20 Q And what do you recognize those to be?

21 A This is the rear passenger exterior, right
22 below the taillight on the Lexus SUV.

23 MR. LALLY: And, Your Honor, may I approach
24 the witness?

25 THE COURT: Yes.

1 MR. LALLY: The Commonwealth seeks to
2 introduce and admit as the next four exhibits.

3 MR. JACKSON: No objection.

4 (Whereupon, photographs were entered and marked
5 Exhibits No. 169 through 172 in Evidence.)

6 THE COURT REPORTER: Exhibits 169 through 172,
7 Your Honor.

8 THE COURT: Thank you.

9 MR. LALLY: Your Honor, with the Court's
10 permission, may I publish some of these photographs
11 to the jury?

12 THE COURT: Yes.

13 MR. LALLY: Ms. Gilman, if I could have
14 Photograph 2573.

15 Q Ms. Hartnett, again, Photograph 2573, what's
16 now been marked as Exhibit 169, do you recognize what's
17 depicted in this?

18 A Yes, I do.

19 Q If you could explain to the jury sort of what
20 we are looking at in this photograph?

21 A This is the area of the rear passenger side of
22 the vehicle, just below the taillight.

23 MR. LALLY: And, Ms. Gilman, if I ask sort of
24 towards the top center of that photograph, if you
25 could zoom in on that area?

1 Q Ms. Hartnett, do you observe another sort of
2 sticker or placard that you placed in that area?

3 A Yes, I do.

4 Q And what, if anything, is that in reference
5 to?

6 A I'm sorry. I can't see what the letter is on
7 it. So I'm not sure what that's in reference to.

8 MR. LALLY: If I could ask Ms. Gilman --

9 THE COURT: Mr. Lally, when you put your head
10 down to read, your voice goes down considerably.
11 We can't get a recording of you. So you need to
12 speak up.

13 MR. LALLY: Understood, Your Honor.

14 Ms. Gilman, if I could have Photograph 2576.
15 And, Ms. Gilman, if you could, with reference to
16 the two areas up on that, could you zoom in on that
17 area? I'm sorry. First on the one below.

18 Q Ms. Hartnett, can you see better there as far
19 as what the sticker is and what you had noted there?

20 A Yes.

21 Q And can you explain to the jury what you have
22 noted in that particular area?

23 A I noted there were scratches in that area.

24 MR. LALLY: And, Ms. Gilman, if you could, the
25 one above?

1 Q Also within this Exhibit 172, there is another
2 sticker further upward on the vehicle. What, if
3 anything, did you denote or observe in that particular
4 area?

5 A In that area, I noted the apparent hair.

6 MR. LALLY: May I approach the witness again,
7 Your Honor?

8 THE COURT: Yes.

9 BY MR. LALLY:

10 Q I show you another series of photographs and
11 just ask you the same question, if you could take a
12 look at those.

13 A (Witness complies.)

14 Q I'd ask you if you recognize generally what
15 they are.

16 A Yes.

17 THE COURT: Next question, Mr. Lally.

18 MR. LALLY: Yes. I'm sorry, Your Honor. May
19 I approach?

20 THE COURT: Yes.

21 MR. LALLY: Your Honor, the Commonwealth would
22 seek to introduce and admit as the next exhibits.

23 MR. JACKSON: No objection.

24 (Whereupon, photographs were entered and marked
25 Exhibits No. 173 through 186 in Evidence.)

1 THE COURT REPORTER: 173 through 186, Your
2 Honor.

3 THE COURT: Thank you.

4 MR. LALLY: Thank you very much.

5 Your Honor, with the Court's permission, I'd
6 ask to publish some of those photographs for the
7 jury, as well.

8 THE COURT: Yes.

9 MR. LALLY: Ms. Gilman, if I could have 2558.

10 Q Again, Ms. Hartnett, do you recognize what's
11 contained in Photograph 2558, Exhibit 173?

12 A Yes, I do.

13 MR. LALLY: And, Ms. Gilman, if I could ask
14 you to just zoom in a bit on the sticker in the
15 middle of the screen.

16 Q Again, Ms. Hartnett, what is depicted in this
17 photograph?

18 A That is a picture of the apparent hair I
19 denoted in the area.

20 MR. LALLY: Ms. Gilman, if I could have 2561.
21 For the record, this is Exhibit 176. Ms. Gilman,
22 if I could ask you to zoom in a bit on the sticker
23 in the middle there.

24 Q Ms. Hartnett, do you recognize what's depicted
25 in this exhibit?

1 A Yes, I do.

2 Q What do you recognize that to be?

3 A That is the damage I noted on the rear door.

4 MR. LALLY: Your Honor, may I approach,
5 please?

6 THE COURT: Yes.

7 Q I'm showing you a series of three photographs.
8 I ask you to look at those and look up when you've
9 finished.

10 A (Witness complies.)

11 Q And do you recognize those, ma'am?

12 A Yes, I do.

13 Q And what do you recognize those to be?

14 A These are photos that I took of the taillight
15 housing back at the lab.

16 Q And what's contained in those three
17 photographs, is that a fair and accurate portrayal of
18 the taillight housing once you had removed it and taken
19 it back to the lab?

20 A Yes.

21 MR. LALLY: May I approach again, Your Honor?

22 THE COURT: Yes.

23 MR. LALLY: The Commonwealth would seek to
24 introduce and admit as the next three exhibits.

25 MR. JACKSON: No objection.

1 (Whereupon, photographs were entered and marked
2 Exhibits No. 187 through 189 in Evidence.)

3 THE COURT REPORTER: 187 through 189, Your
4 Honor.

5 THE COURT: Thank you.

6 MR. LALLY: Thank you very much.

7 BY MR. LALLY:

8 Q So, Ms. Hartnett, before we get to those
9 photographs, I do have a few questions.

10 MR. LALLY: It makes no difference to me, but
11 I think we can turn the lights back on. Thank you,
12 Mr. Officer.

13 Q Now, as far as the collection of that evidence
14 that you collected from the vehicle specifically, how
15 was that evidence collected and, again, you've received
16 training in regard to collecting evidence, correct?

17 A Yes. That's correct.

18 Q And the collection of evidence that you did in
19 this case, was that in conformity with that training
20 and experience that you have?

21 A Yes, it was.

22 Q And so how did you collect those pieces of
23 evidence from the vehicle on that particular day?

24 A It depends on what the item was, the taillight
25 specifically. Is that what you're asking about?

1 Q Well, first let me ask as far as the hair, and
2 then I'll move on to some other items, if that's all
3 right.

4 So as far as the hair was concerned, how was
5 that collected?

6 A I would have collected the hair with tweezers,
7 put it in a glassine envelope and then put that into a
8 larger Manila envelope.

9 Q And, as far as those steps that you take as
10 far as the collection is concerned, what are some of
11 the concerns for that or why is it that you take those
12 steps?

13 A Prior to touching any evidence, I would put on
14 gloves. I'm not sure in this case whether I used
15 disposal tweezers or reusable tweezers. If I used
16 reusable tweezers, they would have been bleached prior
17 to my using them to prevent contamination.

18 Q And so each of those sort of steps that you
19 take in your collection process, is it fair to say that
20 it's in an effort to combat contamination?

21 A Yes. That's correct.

22 Q Now, with regard to the paint chips or the
23 paint standards from the vehicle, how did you collect
24 those?

25 A Those had been collected with a disposable

1 scalpel. I use it to scrape off pieces of paint from
2 the vehicle which are then put in a glassine envelope
3 and a larger Manila envelope.

4 Q And, as far as the pieces of glass from the
5 bumper area of the vehicle, how were those collected?

6 A I collected those with gloves. I may have
7 used tweezers. I don't recall at the time. But,
8 again, if I used tweezers, I would have used bleached
9 tweezers or disposable tweezers.

10 Q Now, as far as that taillight assembly was
11 concerned, how was that collected or what, if any,
12 issues did you have with regard to collecting it?

13 A I removed the taillight. Once I had the
14 taillight housing in my possession, I did have trouble
15 disconnecting it from the vehicle. So a police officer
16 on scene did help me disconnect it from the vehicle so
17 I could properly package it.

18 Q And, as far as you -- what exactly was it that
19 that officer helped you do or what, if anything, did he
20 do?

21 A I believe he just helped undo the wires that
22 were in the back of the taillight so that I could
23 properly hold it and didn't have to place it down
24 anywhere.

25 Q So you had two hands on the taillight as he

1 was performing that; is that correct?

2 A Yes. I believe I did.

3 Q And, as far as the area of the taillight that
4 you were holding, you were wearing gloves, correct?

5 A Yes. That's correct.

6 Q And, as far as that area that you were holding
7 with your two gloved hands, did that officer touch any
8 area of that part of the taillight?

9 A Not to my recollection, no.

10 Q And do you recall whether or not that officer
11 was wearing gloves, himself, when he disconnected that
12 wiring?

13 A I don't recall.

14 Q Now, as far as once you removed that taillight
15 from there, what, if anything, did you do with the
16 taillight there?

17 A I put it into a brown paper bag and then
18 transported it back to the lab, where I then properly
19 secured it in a box with added cushion from additional
20 paper to ensure that no additional damage was done.

21 Q Now, with respect to your time at the Canton
22 Police Department, were you presented with any
23 additional evidence by any officers from the Canton
24 Police?

25 A Yes, I was.

1 Q And what were those items?

2 A I was presented with a broken drinking glass
3 that was reported to have been recovered from the scene
4 at 34 Fairview Road. I was also presented with several
5 Solo cups filled with frozen red-brown stains.

6 Q Now, starting with the drinking glass, what,
7 if anything, did you do with regard to the drinking
8 glass?

9 A I packaged it in a brown paper bag.

10 Q And, with regard to the cups with red-brown
11 stains contained within, what, if anything, did you do
12 with regard to that?

13 A I allowed the cups to thaw, and then I took
14 two sterile swabs, like something similar to a Q-tip,
15 and collected a sample from the red-brown stains in
16 those cups.

17 Q And then what, if anything -- after you took
18 the swabbings from those Solo cups, let me ask first,
19 with regard to the Solo cups, what was done with those?

20 A I'm sorry. Can you repeat that?

21 Q Sure. So after you took the swabbings from
22 the red cups, what, if anything, was done with the red
23 cups?

24 A I returned those to the Canton Police
25 Department to store as they saw fit.

1 Q And, as far as the swabbings that you took,
2 what did you do with those?

3 A I secured those in a glassine envelope and a
4 large Manila envelope and then transported those back
5 to the lab.

6 Q Now, after your examination on scene, you
7 returned back to the lab, correct?

8 A Yes. That's correct.

9 Q And what items of evidence did you examine
10 first in this case in the laboratory?

11 A I examined the apparent hair from the vehicle
12 as well as the broken taillight.

13 Q Now, starting with the examination of the
14 taillight -- well, let me ask, in general terms when
15 items are taken by you back from any kind of scene or
16 any kind of place that you're processing and you bring
17 them back to the lab, what is it that you do with them
18 when you get back to the lab?

19 A When I get back to the lab, I ensure that they
20 are packaged properly, that they are sealed and they
21 are stored in the appropriate location within the lab.
22 I also enter them into our laboratory information
23 management system so that from that point forward,
24 those items can be tracked throughout the lab.

25 Q Now, each of those -- now, when you come in

1 with sort of a case, is there some sort of number or
2 something that's associated with the case when you
3 first sort of generate that?

4 A Yes.

5 Q And do you recall the case number that you
6 assigned or was assigned with regard to this
7 investigation?

8 A Yes, I do.

9 Q And what is that case number?

10 A The case number at the lab was 22-2184.

11 Q Now, with regard to each specific item of
12 evidence that's taken back to the lab and logged in,
13 what, if any, numbers are assigned or associated with
14 those particular pieces of evidence?

15 A Each piece of evidence is given its
16 independent lab number.

17 Q Now, with respect to the taillight, that was
18 labeled as 3-1; is that correct?

19 A That's correct.

20 Q So with respect to Item 3-1, or the taillight,
21 can you explain to the jury the examination process
22 that went into that?

23 A Sure. I prepped my workspace by spraying it
24 down with a 10-percent bleach solution. I also spray
25 down any reusable utensils that I would need to use. I

1 then applied a piece of butcher paper to protect the
2 lab bench and prevent contamination. I would put on
3 gloves, my lab coat and mask before I examine any item
4 of evidence. And then I took photographs of what the
5 packaging looked like and then a photograph of the
6 piece of evidence, itself.

7 Q And then from that specific item, did you
8 perform any testing on that item?

9 A No. I did not do any testing on the item.

10 Q And why not?

11 A I was -- due to the case history, there was no
12 visible red-brown stains on the item as well as the
13 fact that it was a very limited surface area for me to
14 sample from. In addition, I was informed that the car
15 had been towed through a blizzard.

16 So given the fact that there was potentially
17 very limited material on the taillight, if any, any
18 type of testing that we do would remove additional
19 material. So I made the conservative decision to take
20 a swabbing of the item and send it forward for DNA.

21 Q As far as that swabbing of the item for DNA
22 purposes, can you explain sort of what the process is
23 or how that is done?

24 A Yes. We use a polyester swab, which is a flat
25 spatula-shaped swab. I apply sterile water to the swab

1 and rub the exposed area of the taillight. And then
2 that swabs dries before it's packaged and sent to DNA.

3 MR. LALLY: Now, Your Honor, with the Court's
4 permission, could I publish for the jury what's now
5 been marked as Exhibits 187 through 189?

6 THE COURT: Yes.

7 MR. LALLY: And, Ms. Gilman, if I could have
8 first Photograph 8970?

9 BY MR. LALLY:

10 Q Now, Ms. Hartnett, directing your attention to
11 what's up on the screen now as Exhibit 187, again, do
12 you recognize what's depicted in that?

13 A Yes, I do.

14 Q And what do you recognize it to be?

15 A That is the taillight that I removed from the
16 black Lexus SUV.

17 MR. LALLY: And, Ms. Gilman, if I could have
18 8971, the next photograph.

19 Q What's now upon on the screen as Exhibit 188,
20 again, do you recognize what's depicted there?

21 A Yes, I do.

22 Q And what is depicted there and what, if
23 anything, is -- in addition to the taillight, what, if
24 anything, are you doing --

25 A That is the taillight from the black Lexus SUV

1 from a different angle. I am holding up a ruler to
2 show the scale of the item.

3 MR. LALLY: And, lastly, Photograph 8972,
4 Exhibit 189.

5 Q Again, do you recognize what's up on the
6 screen?

7 A Yes, I do.

8 Q And can you explain to the jury what we're
9 looking at perspective-wise and what, if anything,
10 you're doing in this photo?

11 A That is the backside of the taillight. And,
12 again, I'm holding up a ruler to show the scale of the
13 item.

14 MR. LALLY: Thank you. Ms. Gilman, you can
15 take that. I'm sorry. Just one moment, Your
16 Honor.

17 Q Now, Ms. Hartnett, from your initial response
18 to the Canton Police Department, you secured a number
19 of different items from the Canton Police Station that
20 day, correct?

21 A Yes. That's correct.

22 Q And those were labeled subsequently as Items
23 3-1 through 3-13; is that correct?

24 A Yes. That's correct.

25 Q Now, turning your attention to Item 3-6, that

1 was the apparent hair; is that correct?

2 A Yes. That's correct.

3 Q And, in reference to your analysis with regard
4 to the care, that Q-LIM term that I asked you about
5 before, Q-L-I-M, what, if any, significance, did that
6 terminology have to your examination of the hair?

7 A Per protocol, all hairs that would go forward
8 to DNA are considered to be Q-LIM, meaning that the
9 entire sample will be used up during testing.

10 Q And, with regard to Item 3-6, the apparent
11 hair, can you explain the examination process or what
12 it is that you are doing with reference to that,
13 please?

14 A Yes. I take the apparent hair and I mount it
15 on a glass slide using deionized water. I then put the
16 slide under a microscope, and I'm looking for certain
17 characteristics to determine if that piece of material
18 is a hair or a fiber or some other unknown material.

19 Q And, as far as your examination is concerned
20 in that microscopic analysis, what are some of the
21 things and what are some of the characteristics that
22 you're trained to look for that you observed in this
23 specific instance to give you that determination that
24 it was a human hair?

25 A On the exterior of the hair, there will be

1 scales. And, depending on the shape, it can help you
2 determine whether or not the hair is an animal hair or
3 a human hair. Human hair have imbricate scales which
4 look like overlapping shingles with a wave-like edge.
5 That is what I observed on this hair.

6 In addition, the internal characteristics of
7 the item were looked at. Running through the center of
8 a hair is a medulla, which is a channel. Animal
9 medullas and human medullas look different in that
10 human medullas will have sort of an amorphous shape,
11 which means they don't really have any shape at all,
12 whereas an animal medulla will have distinctive or can
13 have distinctive patterns within them.

14 Also, the size of that medulla or channel that
15 runs through the center of a hair, in a human hair, is
16 approximately one-third the entire width of a hair,
17 whereas an animal's, it may be much larger than that.

18 Q Now, as far as based on your examination of
19 this particular item, this hair, what, if any, opinion
20 or what, if any, determination did you come to in
21 regard to that item that you examined microscopically
22 here?

23 A I determined the hair was consistent with a
24 human hair with a root.

25 Q Now, as far as that item was concerned, was

1 there any measurements that were done in reference to
2 that?

3 A Yes, there were.

4 Q And do you recall what the measurements were
5 or what the length was?

6 A I'd have to refer to my notes, if that's
7 possible.

8 MR. LALLY: Your Honor, may the witness refer
9 to her notes just in reference to that?

10 THE COURT: Yes.

11 THE WITNESS: The hair was approximately
12 seven-eighth inches long.

13 BY MR. LALLY:

14 Q Now, with regard to Item 3-6, the hair, did
15 you perform any testing on that?

16 A No, I did not perform any testing.

17 Q And why not, ma'am?

18 A The only type of analysis done on hairs in the
19 criminalistics unit is a visual microscopic
20 examination.

21 Q So where did the hair go from there?

22 A At that point, I cut the hair into two pieces,
23 one end that contains the root and then the remaining
24 end of the shaft. The root end went to our internal
25 DNA unit.

1 Q Now, it may be pretty well understood, but
2 when you say "root end" versus "shaft end," can you
3 explain to the jury what you mean by those sort of
4 descriptions?

5 A The root end is the end that would have been
6 attached to the scalp, and the shaft end is just the
7 remaining outer portion of the hair.

8 Q And how is it that you're able to determine
9 sort of the difference between the root end and the
10 shaft end?

11 A Through the microscopic characteristics that I
12 view.

13 Q Now, with reference to that item, 3-6, the
14 hair, were any decisions made in regard to what testing
15 could or would be performed on those samples?

16 A Yes. Based on the criminalistics protocol,
17 the root end of the hair would tested internally in our
18 DNA unit. And, if potential testing needed to be done
19 on the shaft end, that would be sent out to an external
20 lab.

21 Q And do you know why that is?

22 A We don't perform that type of DNA testing in
23 our lab.

24 Q And that's something -- are you familiar with
25 the term "mitochondrial DNA testing"?

1 A I am familiar with it, but I don't really have
2 a full understanding of it.

3 Q But, as far as your understanding of the type
4 of testing, that would have had to have been sort of
5 sent out to an external vendor, that would be -- the
6 type was mitochondrial?

7 A Yes. That was my knowledge at the time. Yes.

8 Q Now, at some point, did you have a
9 conversation with regard to examination of the
10 remaining items in this case sometime in May of '23?

11 A Yes.

12 Q And what was discussed?

13 A It was discussed that I would examine the
14 clothing and some of the other items for biological
15 testing.

16 Q And, specifically, there was an item, 7-18,
17 which was a gray sweatshirt attributed to Mr. John
18 O'Keefe, correct?

19 A Yes. That's correct.

20 Q Now, from that -- as far as sort of an
21 additional analysis or an examination of those clothing
22 items, what is it that you were doing and what is it
23 that you were looking for as regard to your examination
24 of the clothing items?

25 A I examined the item for biologicals. In this

1 case, I was looking to determine if there was any blood
2 present on the item. I also did damage analysis of
3 various areas on the sleeve and the front and back of
4 the item. I also took a trace collection from the item
5 and additional skin cell collection samples from the
6 item.

7 Q Now, starting first with as far as that
8 specific item, 7-18, the gray sweatshirt, what, if any,
9 observations in general did you make when you examined
10 it?

11 A There were red-brown and brown stains on the
12 item. There was damage from the top of the shirt to
13 the bottom of the shirt as well as across each sleeve
14 of the shirt. I also noted additional damage on the
15 right sleeve.

16 Q Now, each of the areas of damage that you
17 observed, similar to what we saw with the vehicle, were
18 those areas marked, as well?

19 A Yes. I marked each of those areas that I was
20 going to do further analysis on with a number.

21 Q And there were essentially 13 different areas
22 on that sweatshirt that you had marked; is that
23 correct?

24 A Yes. That's correct.

25 MR. LALLY: May I approach the witness, Your

1 Honor?

2 THE COURT: Yes.

3 BY MR. LALLY:

4 Q Ms. Hartnett, I'm showing you a series of six
5 photographs and again asking you to look at those and
6 look up when you're finished.

7 A (Witness complies.)

8 Q Do you recognize those photographs?

9 A Yes, I do.

10 Q And what do you recognize those to be?

11 A These are the photographs I took of Item 7-18,
12 the long sleeve from the shirt.

13 Q And those are sort of the preliminary or
14 overall photographs; is that correct?

15 A Yes. That's correct.

16 MR. LALLY: Your Honor, may I approach?

17 THE COURT: Yes.

18 MR. LALLY: The Commonwealth would seek to
19 introduce and admit as the next six exhibits.

20 MR. JACKSON: No objection.

21 (Whereupon, photographs were entered and marked
22 Exhibits 190 through 195 in Evidence.)

23 THE COURT REPORTER: Exhibits 190 through 195,
24 Your Honor.

25 THE COURT: Thank you.

1 MR. LALLY: Thank you very much.

2 BY MR. LALLY:

3 Q Ms. Hartnett, before I turn to these, I just
4 have one follow-up question. When you had been talking
5 about or testifying about sort of the difference
6 between the root end and the shaft end of the hair, you
7 had mentioned that the root end is typically something
8 that would be attached to the scalp; is that correct?

9 A Yes. That's correct.

10 Q So that would be in reference to a hair that
11 comes from someone's head, correct?

12 A Well, not necessarily. We don't perform body
13 origin identification.

14 Q Okay. So to that point, as far as the root
15 end of the hair that was attached to the body at some
16 point, whether it's the head, an arm, a leg, you don't
17 know where?

18 A Correct. No.

19 MR. LALLY: Your Honor, with the Court's
20 permission, I would ask to publish some of these
21 photographs for the jury, as well.

22 THE COURT: Okay.

23 MR. LALLY: Ms. Gilman, if I could have
24 Photograph 9789.

25 Q Ms. Hartnett, putting up on the screen now

1 what has been marked as Exhibit 190, do you recognize
2 that?

3 A Yes, I do.

4 Q And what do you recognize that to be?

5 A That is the photograph I took of Item 7-18.
6 It is the exterior front.

7 MR. LALLY: Ms. Gilman, if I could have 9790,
8 the next photograph.

9 Q What's up on the screen is Exhibit 191. Do
10 you recognize that, as well, Ms. Hartnett?

11 A Yes, I do.

12 Q And what do you recognize that to be?

13 A That is the exterior rear of Item 7-18.

14 MR. LALLY: And if I could have the next
15 photograph, Ms. Gilman, 9791.

16 Q Again, do you recognize what's up on the
17 screen now as Exhibit 192?

18 A Yes, I do.

19 Q Can you explain to the jury what that is?

20 A That is the interior front of Item 7-18.

21 MR. LALLY: And, lastly -- not lastly but for
22 this purpose, Photograph 9792.

23 Q Again, do you recognize what's up on the
24 screen as Exhibit 193?

25 A Yes, I do.

1 Q What do you recognize that to be?

2 A That is the exterior -- I'm sorry -- interior
3 back of Item 7-18.

4 MR. LALLY: Ms. Gilman, if I could have 9795?

5 Q Again, Ms. Hartnett, do you recognize what's
6 up on the screen as Exhibit 194?

7 A Yes, I do.

8 Q What do you recognize that to be?

9 A That is the exterior front of Item 7-18, and
10 it also contains markers that I placed on the item to
11 note areas of damage.

12 MR. LALLY: And the next photograph would be,
13 Ms. Gilman, 9796. Could you zoom in on that?

14 Q Now, Ms. Hartnett, what we are looking at
15 here, that's the right sleeve of the gray sweatshirt,
16 Item 7-18; is that correct?

17 A Yes. That's correct.

18 Q And so starting with some of the 13 different
19 areas that you labeled, this starts with one, two,
20 three, four and goes up through nine; is that correct?

21 A Yes. That's correct.

22 MR. LALLY: Thank you, ma'am.

23 May I approach the witness again, Your Honor?

24 THE COURT: Yes.

25 BY MR. LALLY:

1 Q Ms. Hartnett, I'm showing you another series
2 of photographs. I'd just ask if you could review those
3 and look up when you're finished.

4 A (Witness complies.)

5 Q Ms. Hartnett, do you recognize what's depicted
6 in those photographs?

7 A Yes, I do.

8 Q And what do you recognize those to be?

9 A These are closeup photos of the areas of
10 damage, one through five.

11 MR. LALLY: May I approach, Your Honor?

12 THE COURT: Yes.

13 MR. LALLY: The Commonwealth would seek to
14 introduce and admit as the next exhibits.

15 MR. JACKSON: No objection, Your Honor.

16 MR. LALLY: And before you begin, Madam Court
17 Reporter, Your Honor, if I may approach just to
18 show the next series of photographs?

19 THE COURT: Yes.

20 (Whereupon, photographs were entered and marked
21 Exhibits No. 196 through 205 in Evidence.)

22 THE COURT REPORTER: Exhibits 196 through 205,
23 Your Honor.

24 MR. LALLY: Your Honor, with the Court's
25 permission, if I could publish some of those

1 photographs for the jury, as well?

2 THE COURT: Yes.

3 MR. LALLY: Ms. Gilman, if I could have
4 Photograph 9811.

5 Q With respect to what's up on the screen,
6 Ms. Hartnett, do you recognize what's now been marked
7 as Exhibit 196?

8 A Yes.

9 Q What do you recognize that to be?

10 A That is an area of damage that I noted as Area
11 1 in my notes.

12 MR. LALLY: Ms. Gilman, if I could have
13 Photograph 9812, the next one.

14 Q Again, Ms. Hartnett, do you recognize what's
15 up on the screen as Exhibit 197?

16 A Yes, I do.

17 Q And, with respect to this, what are you doing
18 here?

19 A That is a closeup photo of the same area of
20 damage, Area 1.

21 Q And that has some measurement that you're
22 taking with reference to the size of that damage; is
23 that correct?

24 A Yes. That's correct.

25 Q And did you do that respectively with each of

1 the respective areas that you noted on each of the
2 garments that you examined?

3 A Yes, I did.

4 MR. LALLY: Ms. Gilman, if I could have
5 Photograph 9813.

6 Q Again, this is Area 2; is that correct?

7 A Yes. That's correct.

8 MR. LALLY: Ms. Gilman, if I could have
9 Photograph 9815.

10 Q Again, what's up on the screen is Exhibit 200.
11 You recognize this as what, ma'am?

12 A That's a photograph of the Area 3 that I
13 noted.

14 MR. LALLY: Ms. Gilman, if I could have 9817.

15 Q Now, with respect to what's now been marked as
16 Exhibit 202, do you recognize that, as well?

17 A Yes, I do.

18 Q And is that the No. 4 area that you noted on
19 the right arm sleeve of the gray sweatshirt of
20 Mr. O'Keefe?

21 A Yes. That's correct.

22 MR. LALLY: Ms. Gilman, if I could have
23 Photograph 9819.

24 Q What's up on the screen as Exhibit 204, do you
25 recognize that, as well?

1 A Yes, I do.

2 Q Again, what is depicted in Exhibit 204?

3 A That is the area of damage, No. 5, that I had
4 in my notes.

5 MR. LALLY: May I approach again, Your Honor?

6 THE COURT: Yes.

7 BY MR. LALLY:

8 Q The photographs that I placed before you,
9 Ms. Hartnett, while the stenographer was marking the
10 prior exhibits, do you recognize what's depicted in
11 those?

12 A Yes, I do.

13 Q And can you describe for the jury sort of
14 generally speaking what's depicted in those, ma'am?

15 A These are closeup photos of Areas 6 through 11
16 that I noted on the long sleeve gray shirt.

17 MR. LALLY: May I approach just to retrieve,
18 Your Honor?

19 THE COURT: Yes.

20 MR. LALLY: Your Honor, the Commonwealth seeks
21 to introduce as the next exhibits.

22 MR. JACKSON: No objection.

23 MR. LALLY: And if I may approach the witness
24 just to present the next set.

25 (Whereupon, photographs were entered and marked

1 Exhibits No. 206 through 217 in Evidence.)

2 THE COURT REPORTER: Exhibits 206 through 217,
3 2-1-7.

4 Q Ms. Hartnett, what's contained in these
5 photographs that have now been marked as Exhibits 206
6 through 217, are those essentially sort of the same
7 closeups and then a closeup with a measurement that the
8 jury just saw in regard to what you had marked as one
9 through five?

10 A Yes. That's correct.

11 Q And this is just six through 11 on that same
12 area of the right sleeve of Mr. O'Keefe's sweatshirt?

13 A Yes. That's correct.

14 Q Now, with regard to the photos that I just
15 placed before you a moment before, do you recognize
16 what's depicted in those?

17 A Yes, I do.

18 Q And what do you recognize those as?

19 A These are the areas of damage, 12 and 13, on
20 the rear of the sweatshirt.

21 MR. LALLY: Your Honor, may I approach?

22 THE COURT: Yes.

23 MR. LALLY: The Commonwealth seeks to
24 introduce and admit as the next exhibit.

25 MR. JACKSON: No objection.

1 MR. LALLY: If I may just place these before
2 the witness.

3 (Whereupon, photographs were entered and marked
4 Exhibits No. 218 through 221 in Evidence.)

5 THE COURT REPORTER: 218 through 222.

6 MR. LALLY: Your Honor, with the Court's
7 permission, may I publish these to the jury?

8 THE COURT: Yes.

9 MR. LALLY: Ms. Gilman, if I could have
10 Photograph 9837.

11 Q Ms. Hartnett, do you recognize what's up on
12 the screen as Exhibit 218?

13 A Yes, I do.

14 Q What do you recognize that to be?

15 A That is the exterior back of the gray
16 sweatshirt.

17 Q And the items marked that you labeled as 12
18 and 13, are they depicted on that?

19 A Yes, they are.

20 Q If you could, using the laser pointer, just
21 draw the jury's attention to where 12 and 13 are.

22 A Is it possible to zoom in on the numbers? I
23 can't read them from here.

24 MR. LALLY: Ms. Gilman, if you would, please.

25 A So there is Area 2 -- I'm sorry. Area 12 and

1 Area 13.

2 MR. LALLY: And, Ms. Gilman, if I could have
3 Photograph 9838.

4 Q With Exhibit 219 up on the screen is that just
5 a closer image of those areas you marked as 12 and 13;
6 is that correct?

7 A Yes. That's correct.

8 Q Thank you. Now, with respect the other
9 photographs that I had placed before you when the
10 stenographer was marking those, do you recognize in
11 general terms what's depicted in those?

12 A Yes, I do.

13 Q What do you recognize those to be?

14 A These are additional pictures of the
15 sweatshirt in which I have also made some notations of
16 areas that need further testing.

17 MR. LALLY: May I approach, Your Honor?

18 THE COURT: Yes.

19 MR. LALLY: The Commonwealth would seek to
20 introduce and admit as the next exhibits.

21 MR. JACKSON: No objection, Your Honor.

22 MR. LALLY: If I may, Your Honor, just place
23 these before the witness.

24 (Whereupon, photographs were entered and marked
25 Exhibits No. 222 through 230 in Evidence.)

1 THE COURT REPORTER: Exhibits 222 through 230.

2 Q Now, Ms. Hartnett, before I get to what's now
3 been marked as Exhibit 222 through 230, if I could just
4 ask you a couple questions in regard to damage that you
5 noted on this item or really on any item. What is the
6 process that you would go through as far as classifying
7 damage to a clothing item?

8 A I look at the macroscopic characteristics of
9 the area of damage and then I also examine the area of
10 damage underneath the microscope.

11 Q And so what would lead you to make that sort
12 of classification as far as something that's damaged?

13 A I look at the overall shape. I also look at
14 the fiber ends. For instance, a tear will have rough
15 fiber ends and possibly separation of the weave if the
16 fabric. For a cut, you have even ends without any
17 fraying.

18 Q Now, are you able to tell from your
19 examination of those fibers and of those clothing
20 materials sort of what caused those tears and cuts?

21 A No.

22 Q Now, are you familiar through your training
23 and experience with something called an ALS or an
24 alternate light source?

25 A Yes.

1 Q And can you explain to the jury what your
2 understanding of that term is and what, if any, use it
3 had to you in this case.

4 A An alternate light source is a light that uses
5 a different wavelength that enables visualization of
6 some biological fluids that can't be seen necessarily
7 with the naked eye. On this particular shirt, I did
8 use the alternate light source.

9 Q And what, if anything, did you observe when
10 you used that?

11 A I used that light source around those areas of
12 damage to determine if there were any biological fluids
13 that were fluorescing. The ALS did not show any stains
14 in that area.

15 Q Now, with regard to what you had labeled as
16 sort of Tears or Cuts 1 through 9 that you noted, did
17 you do any additional testing or collecting
18 specifically from those areas?

19 A I collected two cotton swabs moistened with
20 sterile water around those areas of damage.

21 Q And why did you do that?

22 A It was told to me that potentially the victim
23 may have been bitten by a dog during an incident. So I
24 was taking swabs of that area to be sent out to
25 determine if there was any dog DNA on that area.

1 Q Now, is that kind of testing, as far as canine
2 testing or animal testing, is that something that your
3 lab at the state police crime lab is accredited or is
4 authorized to do?

5 A No. We do not do that type of testing.

6 Q Is that sort of sent out to an external vendor
7 then?

8 A Yes. That's correct.

9 Q And is that something that you had done on any
10 prior cases or any previous situations where you had
11 collected items and sent it out to a specific lab for
12 animal testing?

13 A I did consult once with an external lab on
14 taking those types of collections. But this is the
15 first time I've collected and actually sent something
16 out for that type of testing.

17 Q And, specifically in this type of testing and
18 in this case, what lab were those items sent out to?

19 A We use the UC Davis veterinary lab in
20 California.

21 Q And, as far as prior to collecting or prepping
22 or doing anything as far as collecting samples from
23 that, who, if anyone, did you talk to or what, if any,
24 direction did you receive in regard to collecting those
25 samples?

1 MR. JACKSON: Objection.

2 THE COURT: I'll allow it.

3 THE WITNESS: I emailed Teri Kuhn, who is one
4 of the analysts at the clinic who aided me in how
5 best to collect the sample for their lab.

6 BY MR. LALLY:

7 Q And what you were directed to do as far as
8 collection, packaging and shipping, was that at the
9 direction of the UC Davis lab?

10 A Yes. That's correct.

11 Q And you performed those functions in
12 conformity with what Ms. Kuhn told you, correct?

13 A Yes. That's correct.

14 Q Now, with regard to those items, did you note
15 -- with regard to the clothing items as far as the gray
16 sweatshirt was concerned, did you note any stains on
17 those areas on that clothing item?

18 A Yes. I did note stains in those areas.

19 Q And then what, if any, testing was done on
20 those stains that you observed?

21 A Can you be more specific what stains you're
22 referring to?

23 Q Sure. So what I'm specifically referring to
24 are the items on the gray sweatshirt, Item 7-18, as far
25 as any stains that you observed on there, again, sort

1 of moving on from what you had collected for the UC
2 Davis lab but in other areas of that item. Well, let
3 me actually -- first, turning back to that, so the item
4 that we were talking about as far as where you
5 collected stains from that were sent off to the UC
6 Davis lab, which item were they collected from and
7 where on that item were they collected?

8 A I collected two swabs from the areas around
9 the -- excuse me -- around the damaged areas on the
10 right sleeve. I wasn't necessarily taking them for any
11 stains. I did use the ALS to determine if there were
12 any stains there, which I did not visualize. So I was
13 doing that for potential saliva collection from that
14 area.

15 Q And thank you for the clarification. I think
16 that was me confusing as far as the questions go.

17 Turning away from that area as far as the
18 collection for the UC Davis lab, in addition to that,
19 what, if any, stains did you observe on that article of
20 clothing, 7-18, the gray sweatshirt?

21 A I also observed numerous red-brown stains on
22 that item of clothing.

23 Q And so with regard to those red-brown stains,
24 what, if any, testing was done on those stains?

25 A On each of those stains, I performed a blood

1 screening test as well as a blood confirmatory test.

2 Q And are those the same sort of initial
3 testing, screening tests, that you were talking about
4 before and then the confirmatory test?

5 A Yes. That's correct. A different screening
6 test was used in the lab than was used at the scene due
7 to protocol change. But essentially it's the same
8 mechanism.

9 Q And was that with respect just to the gray
10 sweatshirt or were there other items of clothing of
11 Mr. O'Keefe's that you tested with the screening test
12 in the lab and a confirmatory test in the lab, as well?

13 A I examined other items of clothing, as well.

14 Q Now, if I could bring your attention back to
15 what's now been marked as Exhibits 222 through 230.

16 MR. LALLY: Your Honor, with the Court's
17 permission, if I could publish some of those
18 photographs before the jury?

19 THE COURT: Yes.

20 MR. LALLY: Ms. Gilman, if I could first have
21 Photograph 9841.

22 BY MR. LALLY:

23 Q And what's been marked as Exhibit 222, again,
24 do you recognize what's depicted up on the screen?

25 A Yes, I do.

1 Q And, with reference to your observations of
2 the red-brown stains on that clothing or any other item
3 of clothing, similar to the tears or cuts or the
4 damaged areas that you observed, were those areas
5 similarly marked with some sort of sticker?

6 A Yes. That's correct.

7 Q And is it sort of the same linear path as far
8 as numbering or is it lettering or how do you denote
9 those?

10 A For the red-brown stains on this item, I used
11 letters.

12 Q Starting with "A" and then sort of going
13 through it; is that correct?

14 A Yes. That's correct.

15 MR. LALLY: Ms. Gilman, if I could have
16 Photograph 9842.

17 Q Again, do you recognize what's up on the
18 screen?

19 A Yes, I do.

20 Q And what do you recognize that to be?

21 A That would red-brown stain "A" that I noted on
22 the sweatshirt.

23 MR. LALLY: And, Ms. Gilman, if I could have
24 9843.

25 Q And what's up on the screen which has been

1 marked as Exhibit 224, do you recognize that, as well?

2 A Yes, I do.

3 Q And what do you recognize that to be?

4 A Those are red-brown stains "B" and "C" that I
5 noted on the sweatshirt.

6 MR. LALLY: And, Ms. Gilman, if I could have
7 Photograph 9844.

8 Q What's up on the screen now is Exhibit 225
9 showing stains that you labeled "B," "C" and "F"; is
10 that correct?

11 A Yes. That's correct.

12 Q And that's sort of a pulled out version of
13 that to denote where "B" and "C" were located on the
14 sweatshirt; is that fair to say?

15 A Yes. That's correct.

16 MR. LALLY: And, Ms. Gilman, if I could have
17 Photograph 9846. Ms. Gilman, if you could zoom in
18 a little bit.

19 Q What's now up on the screen is Exhibit 227.
20 Do you recognize what's up there on the screen as
21 Exhibit 227?

22 A Yes, I do.

23 Q And these are two other stains that you noted
24 as far as "D" and "E" on the same item?

25 A Yes. That's correct.

1 Q Now, ma'am, with reference to the other
2 photographs that I think you still have before you that
3 I gave you when the stenographer was marking the last
4 batch, do you recognize generally what's depicted in
5 those photographs?

6 A Yes, I do.

7 Q And what do you recognize those to be?

8 A There are photographs of Item 7-17, the
9 armed tee shirt that I was told was belonging to
10 John O'Keefe.

11 Q And what's depicted in those photographs, is
12 that a fair and accurate portrayal of what you observed
13 as far as the orange tee shirt was concerned in your
14 lab that day?

15 A Yes. That's correct.

16 MR. LALLY: May I approach again, Your Honor?

17 THE COURT: Yes.

18 MR. LALLY: The Commonwealth would seek to
19 introduce and admit as the next exhibits.

20 MR. JACKSON: No objection, Your Honor.

21 (Whereupon, photographs were entered and marked
22 Exhibits No. 231 through 241 in Evidence.)

23 THE COURT REPORTER: Exhibits 231 through 241,
24 Your Honor.

25 THE COURT: Thank you. Mr. Lally, we have a

1 few minutes before lunch. Do you intend to display
2 some?

3 MR. LALLY: I think maybe --

4 THE COURT: If you do, do it quickly. Do it
5 now. If you are not, we will take a break.

6 Jurors, we are going to take the lunch break.
7 I'm going to see counsel at sidebar. And, jurors,
8 we will do a shorter lunch if we could again,
9 please.

10 (Whereupon, the jury is escorted from the courtroom
11 for the luncheon recess.)

12 (Whereupon, there was a sidebar conference as
13 follows:)

14 THE COURT: Do we have a lot of duplicates, or
15 does it just seem to me that there's a lot of
16 duplicates here and it's taking forever to put them
17 into evidence?

18 MR. LALLY: I don't believe that there is.

19 THE COURT: All right. So this reminds me of
20 like the 100 exhibits of snow. Are we doing a lot
21 of repetitive things here, Mr. Lally?

22 MR. LALLY: No, Your Honor. What I'm trying
23 to do is establish each of the areas that were
24 marked and subsequently tested by her and then
25 there are further swabs taken that are then tested

1 in the DNA lab.

2 THE COURT: I understand that, but there are
3 numbers like five, six, seven, eight that are shown
4 two and three times, right? Closeups, perhaps?

5 MR. LALLY: I mean, I did that with one
6 through five. But then what I wanted to do is skip
7 over that as far as 12 through 11 -- I'm sorry, six
8 through 11. Twelve and 13 are in a different area
9 of the item of clothing. So that's why I've shown
10 those. But again, I don't need to do this for
11 every single one. I just want to establish the
12 process and how they are labeled. And then they
13 are going to have the photographs for themselves.
14 I'm not looking to publish every single photograph.

15 THE COURT: The publishing takes two seconds.
16 It's this that takes forever. How many more --

17 MR. LALLY: So as far as the --

18 THE COURT: Hold on.

19 MR. LALLY: I'm sorry.

20 THE COURT: One at a time.

21 MR. LALLY: My apologies.

22 THE COURT: How many more exhibits do you
23 have?

24 MR. LALLY: For this witness, as far as
25 groupings, it's just the orange tee shirt, the

1 jeans, the sneakers and his fingernails, which I
2 don't need to do anything with those. And, as far
3 as publishing those, I'm not really looking to --
4 like I said, I was establishing through this item
5 of clothing and then --

6 THE COURT: Hold on. Ms. Hartnett, you can
7 step down.

8 (Whereupon, the witness steps from the witness
9 stand.)

10 THE COURT: Is that it for the rest of the day
11 or is your whole left hand --

12 MR. LALLY: That's for Mx. Vallier.

13 THE COURT: All right. Hold on one second,
14 please.

15 All right. We'll take the luncheon break.
16 I'll see counsel back here at 1:30.

17 (Whereupon, the sidebar conference concluded and
18 the luncheon recess was taken.)
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A F T E R N O O N S E S S I O N

(Court resumes at 1:39 p.m.)

(Defendant present. Jury present.)

THE COURT: Could we have the witness, please?

All right, Mr. Lally.

BY MR. LALLY:

Q Good afternoon, Ms. Hartnett.

A Good afternoon.

Q So with respect to the photographs that were just marked as exhibits of the orange tee shirt that was marked as 7-1; is that correct?

A I'm sorry. 7-17?

A Yes. That's correct.

Q So similar to how you had marked off areas of either damage or red-brown stains, was that similar to what you -- what you did with the gray hooded sweatshirt, is that similar to what you did with the orange tee shirt, as well?

A Yes. That's correct.

Q And then there were two other clothing items that you examined being a pair of jeans and a set of sneakers; correct?

A Yes. That's correct.

Q And, with reference to the jeans, that was marked as Item 7-1; is that correct?

1 A Yes. That's correct.

2 Q And, with respect to the sneakers, that was
3 marked as Item 7-4; is that correct?

4 A Each sneaker had its own item number. One was
5 7-3 and one was 7-4.

6 Q And, with respect to the evidence as far as
7 the stickers and sort of the denotations that you had
8 made in regard to either damage or red-brown stains,
9 was that similarly done with respect to each of those
10 remaining clothing items, as well?

11 A Yes. That's correct.

12 MR. LALLY: And, Your Honor, may I approach?

13 THE COURT: Yes.

14 BY MR. LALLY:

15 Q Now, Ms. Hartnett, with respect to the jeans,
16 I'm showing you a series of one, two, three -- eight
17 photographs. Do you recognize those?

18 A Yes, I do.

19 Q And what do you recognize those to be?

20 A Those are photographs that I took of the pair
21 of jeans.

22 Q And is what's contained in those photographs a
23 fair and accurate portrayal of your observations of
24 those jeans when you conducted your examination of them
25 at the lab?

1 A Yes. That's correct.

2 MR. LALLY: May I approach again, Your Honor?

3 THE COURT: Yes.

4 MR. LALLY: The Commonwealth would seek to
5 introduce and admit as the next exhibits.

6 THE COURT: There is no objection, you said
7 Mr. Jackson?

8 MR. JACKSON: There is not. Thank you.

9 (Whereupon, photographs were entered and marked
10 Exhibits No. 242 through 249 in Evidence.)

11 THE COURT REPORTER: Exhibits 242 through 249.

12 MR. LALLY: Your Honor, if I may, with the
13 Court's permission, publish some of the photographs
14 in the packet of 232 to 241?

15 THE COURT: Okay.

16 MR. LALLY: And, Ms. Gilman, if I could have
17 Photograph 9862.

18 BY MR. LALLY:

19 Q Ms. Hartnett, do you recognize what's up on
20 the screen that has now been marked as Exhibit 231?

21 A Yes, I do.

22 Q And what do you recognize that to be?

23 A That is a photograph I took of Item 7-17, the
24 orange tee shirt, and it's the exterior front.

25 MR. LALLY: And, Ms. Gilman, 9863.

1 Q And, again, Ms. Hartnett, do you recognize
2 what's up on the screen as Exhibit 232?

3 A Yes, I do.

4 Q What do you recognize that to be?

5 A That is the exterior back of Item 7-17.

6 MR. LALLY: And, Ms. Gilman, if I could have
7 9867. And, Ms. Gilman, if you could zoom in on
8 sort of the upper right portion of that?

9 Q Now, Ms. Hartnett, do you recognize what's up
10 on the screen as Exhibit 233?

11 A Yes, I do.

12 Q And, again, using the laser pointer, if you
13 could draw the jury's attention to any items that you
14 -- or any areas of this shirt that you marked on?

15 A I marked three specific red-brown stains using
16 the stickers and letters "A," "B" and "C."

17 MR. LALLY: And, Ms. Gilman, if I could ask
18 you to keep the zoom in but go to the bottom left
19 of the photograph.

20 Q And, similarly, Ms. Hartnett, within this
21 zoomed-in portion of Exhibit 233, using the laser
22 pointer, could you draw the jury's attention to what,
23 if anything you noted there?

24 A I noted red-brown stains "D" which I marked
25 with a sticker and "D" on the bottom right.

1 MR. LALLY: Lastly, Ms. Gilman, if I could
2 have Photograph 9873.

3 Q And, Ms. Hartnett, what is up on the screen
4 has now been marked as Exhibit 239. Do you recognize
5 that?

6 A Yes, I do.

7 MR. LALLY: And, Ms. Gilman, if you could zoom
8 in on the upper left portion of the photograph.

9 Q And, again, Ms. Hartnett, if you could, using
10 the laser pointer, just draw the jury's attention to
11 what, if anything, you noted there?

12 A I noted this specific red-brown stains and I
13 marked it "E."

14 Q Thank you.

15 MR. LALLY: Your Honor, similarly, with the
16 Court's permission, if I could publish what's been
17 marked now as Exhibit 242 through 249?

18 THE COURT: Yes.

19 MR. LALLY: Ms. Gilman, if I could have
20 Photograph 9878.

21 BY MR. LALLY:

22 Q Ms. Hartnett, I direct your attention to up at
23 the screen with what's been marked as Exhibit 242. Do
24 you recognize that?

25 A Yes, I do.

1 Q And what do you recognize that to be?

2 A That's a photograph of the exterior front of
3 the jeans with the belt, Item 7-1.

4 MR. LALLY: And, Ms. Gilman, if I could have
5 9887.

6 Q And, as you testified before, similarly to the
7 other clothing items that you testified about, did you
8 mark off certain items of interest or areas of interest
9 on this item, as well as with respect to the jeans?

10 A Yes, I did.

11 Q Is that depicted in this photograph?

12 A Yes.

13 MR. LALLY: And, Ms. Gilman, if I could have
14 9888. And if you could just zoom in just a bit,
15 Ms. Gilman.

16 Q And, again, Ms. Hartnett, if you could, now
17 using the laser pointer before you, direct the jury's
18 attention to those areas that you noted or that you
19 marked off in respect to this exhibit.

20 A I marked off red-brown stains "A," "B," "C,"
21 "D," and "E" on the front of those jeans.

22 MR. LALLY: Your Honor, may I approach the
23 witness?

24 THE COURT: Yes.

25 BY MR. LALLY:

1 Q Ms. Hartnett, showing you another series of
2 five photographs, if you could just view those.

3 A (Witness complies.)

4 Q Do you recognize what's depicted in those
5 photographs?

6 A Yes, I do.

7 Q What do you recognize those to be?

8 A These are photographs of the sneakers, Item 7-
9 3 and 7-4.

10 MR. LALLY: May I approach, Your Honor?

11 THE COURT: Yes.

12 MR. LALLY: Your Honor, the Commonwealth seeks
13 to introduce these as the next exhibits.

14 MR. JACKSON: No objection.

15 (Whereupon, photographs were entered and marked
16 Exhibits No. 250 through 254 in Evidence.)

17 Q Ms. Hartnett, with reference to the sneakers
18 and sort of the other clothing items that you received,
19 do you recall how or where or when it was that you
20 received each of those respective clothing items or how
21 the lab did, if you know?

22 A They were received by the lab from the Norfolk
23 detective unit.

24 Q And, as far as the sneakers being labeled with
25 two different stickers, do you know why that was?

1 A One of the sneakers was recovered from 34
2 Fairview Road and one of the sneakers was recovered
3 from the hospital.

4 Q Now, with reference to the photographs that
5 I've just placed before you, have you had a chance to
6 look at those?

7 A These ones here?

8 Q Yes.

9 A No.

10 Q If you could?

11 A (Witness complies.)

12 Q And do you recognize what's depicted in those
13 photographs, ma'am?

14 A Yes, I do.

15 Q And what do you recognize those to be?

16 A Those are the fingernail clippings that were
17 submitted for John O'Keefe.

18 Q And do you know where they were submitted
19 from?

20 A By the Norfolk County detective unit.

21 MR. LALLY: May I approach, Your Honor?

22 THE COURT: Yes.

23 MR. LALLY: The Commonwealth would seek to
24 introduce and admit as the next exhibit.

25 THE COURT: Okay.

1 (Whereupon, photographs were entered and marked
2 Exhibits No. 255 through 258 in Evidence.)

3 THE COURT REPORTER: 255 through 258.

4 MR. LALLY: And, Your Honor, with respect to
5 each of those, I'm not seeking to publish those to
6 the jury at this time. So if the court officer
7 could --

8 THE COURT: Could we have the lights back on,
9 please.

10 MR. LALLY: Thank you.

11 BY MR. LALLY:

12 Q Now, Ms. Hartnett, with respect to those
13 stains on the gray sweatshirt, the orange tee shirt and
14 the jeans, what, if any, testing was done with respect
15 to those stains?

16 A A screening test was performed on each of the
17 red-brown stains on each of those items. I'm sorry.
18 Did you say the sneakers? Could you repeat what items
19 you --

20 Q Yes. With respect to each of those respective
21 clothing items, what, if any, testing was done with
22 regard to any stains you observed on those items of
23 clothing.

24 A For the sweatshirt, the tee shirt and the
25 jeans, I saw visible red-brown stains which I screened

1 for blood. The majority were also -- I also performed
2 a confirmatory test for blood. There was one stain on
3 the orange tee shirt, however, that was too small to
4 perform that confirmatory test. So for that and since
5 I noted that the stain was quantity limited, I
6 preserved it after the positive screening test instead
7 of performing a confirmatory test in order to preserve
8 enough material for any DNA material.

9 As far as the sneakers, given their dark
10 color, I did not see any visible red-brown stains on
11 the black area of the sneakers. So I used an alternate
12 light source to aid in visualizing any potential blood
13 on those sneakers. With that alternate light source, I
14 tested several stains on the sneakers, one of which
15 screened positive for blood.

16 Q Now, with respect to the other clothing items
17 that you were talking about doing the screening test
18 and the confirmatory test for blood with respect to the
19 gray sweatshirt, the orange tee shirt and the jeans,
20 what were the results of that screening test and that
21 confirmatory test that you ran with regard to each of
22 those stains?

23 A The screening test and the confirmatory test
24 were positive.

25 Q Now, beyond the stains, did you take any

1 additional samples from those items?

2 A Yes, I did.

3 Q And what were those and how was that done?

4 A For each of the items, I picked up any loose
5 trace material, which would be hairs and fibers or
6 apparent hairs and fibers that were adhering to the
7 item. I also did a scraping and swabbing for skin cell
8 collection of the unseen areas, and that involved using
9 a sterile scalpel and swabbing the areas of the
10 clothing that don't have any visible stains on them and
11 then taking two cotton swabs and swabbing that same
12 area and then combining those scrapings and swabs for
13 potential DNA analysis.

14 In addition to those, I also took a scraping
15 of each of the materials, and that involves taking the
16 item, using something like a flat metal spatula and
17 scraping down whatever adhering material is left on the
18 item into a glassine packet.

19 Q And, as far as those items, once they are
20 collected from the material or from the clothing, what
21 do you do with them from there?

22 A Each of those items is given its own item
23 number. It is a sub-item of the overall larger number
24 used to mark the item. And those are sent to the
25 appropriate units for additional testing.

1 Q And, as far as preservation is concerned, when
2 it comes to sending something to either the trace unit
3 or the DNA unit, what, if any, steps are taken in
4 regard to preserving those items once they are removed
5 from the clothing and sent off to the other units?

6 A Each of those items are to be preserved
7 according to protocol. They are sealed properly,
8 initialed and dated with my initials and date. They
9 are entered into our LIM system so those sub-items can
10 then be tracked throughout the laboratory, and they are
11 stored in the appropriate storage unit.

12 Q Now, at some point, did you also receive items
13 that were labeled as 3-2 and 3-3?

14 A I submitted those when I returned from the
15 original scene.

16 Q And what were those, ma'am?

17 A Those were pieces of glass from the bumper and
18 a drinking glass from the crime scene.

19 Q Now, did you examine those items?

20 A Yes, I did.

21 Q And what, if any, examination did you do and
22 what is it that you were looking for in your
23 examination?

24 A I did a visual examination and I took
25 photographs. And then I also took a collection from

1 each of the items.

2 Q And did you do any testing on those items?

3 A No, I did not.

4 Q And what kind of samples did you collect from
5 those items?

6 A I took potential skin cell collection using a
7 swab moistened with sterile water.

8 Q And, as far as the samples that you took from,
9 as well as the items, themselves, what, if anything,
10 did you do with reference to those once you were done
11 with your examination?

12 A The swabs were preserved for testing in the
13 DNA unit, and the original items, the apparent pieces
14 of glass and the drinking glass, were preserved through
15 the trace unit.

16 Q And, as far as those preservations were
17 concerned, is that similar to the preservation process
18 you were describing earlier with regard to the clothing
19 items?

20 A Yes. That's correct.

21 THE COURT: So both Mr. Lally and
22 Ms. Hartnett, you have to keep your voices up or we
23 have to turn the air-conditioner off.

24 MR. LALLY: Understood, Your Honor.

25 If I may have one moment, Your Honor?

1 THE COURT: Yes.

2 MR. LALLY: Thank you very much, ma'am. I
3 don't have any further questions.

4 THE COURT: All right. Cross-examination?

5 MR. JACKSON: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. JACKSON:

8 Q Ms. Hartnett, you responded to Canton Police
9 Department. A lot of your testimony was about what
10 happened in the sally port, correct?

11 A Yes. That's correct.

12 Q You were asked if you responded to the Canton
13 Police Department on February 2nd, and most of your
14 testimony was predicated on that date you going over
15 there and doing some visual observations as well as
16 some removal of items and some other testing, correct?

17 A Yes. That's correct.

18 Q Was it February 2nd or was it February 1st?

19 A May I check my notes?

20 Q I'd appreciate it if you did. Yes.

21 A My apologies. That was my error. It was
22 February 1st.

23 Q Okay. So everything that you testified to --
24 you only went once?

25 A Yes. That's correct.

1 Q So everything that you testified to having
2 taken place on February 1st, we should have assumed it
3 was actually -- sorry, on February 2nd, we should
4 assume it was actually February 1st the one time you
5 were there?

6 A Yes. I was there one time.

7 Q Okay. Were you dispatched to the sally port
8 -- and I apologize. I'm not yelling at you. I'm
9 trying to keep my voice elevated, just so you know.

10 A Understood.

11 Q It's not my normal speaking voice.

12 You were dispatched at the behest of one of
13 the Massachusetts State Police troopers, correct?

14 A Yes. That's correct.

15 Q The detective bureau specifically, right?

16 A Yes. That's correct.

17 Q Trooper Proctor more specifically, correct?

18 A Yes. That's correct.

19 Q And Trooper Proctor you knew at that time to
20 be the lead detective, the person who was in control of
21 the investigation?

22 A May I check my notes as to who I wrote down as
23 the lead investigator at that time?

24 Q If it would refresh your recollection, sure,
25 with the Court's permission.

1 THE COURT: Yes.

2 A Yes. I was told on scene that Trooper Proctor
3 was in charge of the investigation.

4 Q All right. Now, while you were there, one of
5 the things that you did initially was to just do an
6 overview of the vehicle, correct?

7 A Yes. That's correct.

8 Q Obviously, that was important given the
9 limited information that you had at that time about a
10 potential motor vehicle pedestrian incident, correct?

11 A Correct.

12 Q So you were looking for anything that would
13 rise to a level of investigative concern regarding that
14 vehicle, right?

15 A Yes. That's correct.

16 Q Hence, your review and notation of certain
17 scratches on the vehicle; is that right?

18 A Yes.

19 Q Which may or may not have anything to do with
20 the incident, but you noted it anyway, correct?

21 A I did not draw any conclusions as to where
22 those scratches came from.

23 Q Okay. You just took the words right out of my
24 mouth.

25 My next question: The dent that you noted and

1 photographed, you make no conclusion that that occurred
2 as a result of a motor vehicle/pedestrian, correct?

3 A That's correct.

4 Q The scratches -- and I'm just going to go
5 through a couple of them. The scratches that you
6 denoted and had photographed, you made no conclusions
7 about that having anything to do with a motor
8 vehicle/pedestrian incident, correct?

9 A That's correct.

10 Q Even the broken taillight. At that point, you
11 made no conclusions or drew no scientific conclusions
12 about that having anything at all to do with a motor
13 vehicle/pedestrian incident, correct?

14 A That's correct.

15 Q You did, however, look for tissue, human
16 tissue, blood, biological material and things of that
17 nature on the car, itself, did you not?

18 A Yes, I did.

19 Q In that review, I think you testified that you
20 saw nothing that suggested the transfer of human tissue
21 to the vehicle, correct?

22 A I did not see any visible stains or tissue on
23 the vehicle.

24 Q You were told, Ms. Hartnett, that there were
25 scratches on one of the extremities of John O'Keefe,

1 correct?

2 A That's correct.

3 Q Were you shown a photograph of those scratches
4 to assist you in your visual review or examination of
5 that vehicle?

6 A Not at that time, no.

7 Q To this date, have you seen a photograph of
8 his arm and the injuries to his arm?

9 A Yes, I have.

10 MR. JACKSON: Your Honor, if I may, if we
11 have it, could I display for the jurors and for
12 Ms. Hartnett Exhibit 19?

13 THE COURT: Is this the one that --

14 MR. JACKSON: With the arm, and it has been
15 cropped. Yes, Your Honor.

16 THE COURT: Okay. Yes.

17 BY MR. JACKSON:

18 Q Ms. Hartnett, do you recognize what's depicted
19 in Exhibit 19?

20 A Yes, I do.

21 Q And you've seen that pattern of scratches
22 previously, correct?

23 A Yes. I have seen a photo containing them.

24 Q Okay. And that's consistent with the photo
25 that you've seen since your visit to the sally port on

1 February 1st, correct?

2 A That's correct.

3 Q All right. Was there anything in your -- by
4 the way, did you look all around the vehicle, 360
5 degrees?

6 A Yes, I did.

7 Q Did you look toward the top of the vehicle as
8 well as toward the bottom of the vehicle?

9 A I did not examine the roof of the vehicle.

10 Q Say that again?

11 A I did not examine the roof of the vehicle.

12 Q Understood. Did you examine the undercarriage
13 of the vehicle?

14 A I did look at the undercarriage of the
15 vehicle.

16 Q And you know what I mean when I say
17 "undercarriage"?

18 A Yes.

19 Q Could you explain for the jurors what you mean
20 when you use the word "undercarriage"?

21 A The parts that normally you would have to see
22 by, you know, bending over or laying underneath the car
23 to view what's underneath the vehicle.

24 Q That would include the frame and the axle and
25 the drive shaft, transmission, things of that nature?

1 A Yes. I'm not confident in all the terminology
2 of the undercarriage, but yes.

3 Q Did you see anything that was suggestive of or
4 consistent with the pattern of injury that you see to
5 Mr. O'Keefe's right arm?

6 A I wouldn't say I'm qualified to make any kind
7 of pattern determination and what would match the
8 injuries on his arm.

9 Q So the answer to my question is as you sit
10 here, you made no observation of anything on the SUV
11 that matched these injuries, correct?

12 MR. LALLY: Objection.

13 THE COURT: Go ahead and answer.

14 THE WITNESS: I wouldn't be able to testify,
15 not from memory. I don't have a photograph of the
16 undercarriage, nor did I make any kind of
17 conclusions about that at the time.

18 BY MR. JACKSON:

19 Q Okay. Understood. And you didn't take any --
20 I'm sorry. The swabs and samples that you did take
21 variously on the car all came back negative for human
22 tissue, et cetera?

23 A The testing that I did on scene from the
24 various areas of the undercarriage which I had
25 mentioned before, the tire flaps, the edge of the

1 bumper and the exhaust pipe, screened negative for
2 blood.

3 THE COURT: Mr. Jackson, would you take the --

4 MR. JACKSON: Yes. I was just going to
5 suggest that. Thank you, Your Honor.

6 BY MR. JACKSON:

7 Q On February 1st, 2002, in addition to taking
8 some swabs from the vehicle, itself, you also mentioned
9 that you took swabs of what you believe to be blood
10 evidence contained in six Solo cups, correct?

11 A Yes. I had noted those as frozen red-brown
12 stains in red cups.

13 Q Were those Solo cups in any way labeled among
14 themselves? In other words, Solo Cup 1, 2, 3, 4?

15 A I don't believe they were, but I don't have a
16 photograph of that. So I'm not 100 percent sure.

17 Q You did not thereafter label those Solo cups?
18 If they hadn't been done beforehand, you did not
19 undertake to label those Solo cups, correct?

20 A No. I did not label them.

21 Q How did you take those swabs? Was the swab
22 done in one Solo cup or did you take a swab from all
23 six or how did you take those swabs that you ultimately
24 did take?

25 A I took those swabs from one Solo cup.

1 Q How did you choose which of the six Solo cups
2 you were going to take a swab from?

3 A I don't recall how I chose which cup. It was
4 reported to me that those cups came from the same area
5 of red-brown staining. So I did make an assumption
6 that they're all related. From what I was told, it
7 came from one area of red-brown stain at the scene.

8 Q And you, of course, know as a forensic
9 criminalist that bloodstains can contain multiple
10 contributors, correct?

11 A Yes. That's correct.

12 Q You don't know as you sit here which
13 bloodstain found at the scene related to which Solo cup
14 in the bag, correct?

15 MR. LALLY: Objection.

16 THE COURT: I'll allow it.

17 THE WITNESS: No. It was my understanding
18 they were all taken from the same stain. But I was
19 not there.

20 BY MR. JACKSON:

21 Q From the same scene or --

22 A Stain. Excuse me. It was my understanding
23 they were all taken from the same stain.

24 Q Okay. If they, in fact, were taken from
25 multiple stains, you would have no way of knowing that

1 as you sit here?

2 A That's correct.

3 Q Okay. And, ultimately, once you did take that
4 swab from that single Solo cup, what did you do with
5 the rest of that blood evidence?

6 A I left that with the Canton Police Department.

7 Q Was there any of the -- by the way, I should
8 ask this. I've been saying "swabs." Was there one
9 swab taken from that one Solo cup or were there
10 multiple swabs taken?

11 A There were two swabs taken.

12 Q Of those two swabs, did you seek to do DNA
13 testing or was DNA testing done on either one of those
14 or both of them?

15 A DNA testing was not done on those swabs.

16 Q So as we sit here now, there has been no DNA
17 confirmation of who those -- who that blood relates to,
18 I should say?

19 A There was no testing done on it at all.

20 Q And so therefore, we would not know if there
21 were multiple contributors to those stains or that swab
22 that you took from that single Solo cup?

23 A That's correct.

24 Q And, again, the remainder of that Solo cup as
25 well as all the other five Solo cups was retained by

1 Canton Police at the Canton Police Department in the
2 control of the lead investigator, Michael Proctor,
3 correct?

4 A I don't know who was in control of it once I
5 returned it to the Canton Police Department.

6 Q Who did you return it to at the Canton Police
7 Department? Whom, I should say.

8 A I gave it to a Canton police officer. I don't
9 know which officer that was.

10 Q Michael Proctor was at the sally port at the
11 time that you were doing your examination, correct?

12 A Yes. That's correct.

13 Q Did he not take control of it himself?

14 A Not that I saw. I don't know who took control
15 of them once I was done with my collection.

16 Q Okay. He may have. You just don't know?

17 A Correct.

18 Q Going back to some of the damage that you did
19 note on the vehicle, that vehicle looked like it had
20 been driven to a certain degree, right?

21 MR. LALLY: Objection.

22 THE COURT: Can you answer that?

23 THE WITNESS: If you could clarify the
24 question? I'm not sure what you're asking.

25 BY MR. JACKSON:

1 Q Sure. It's a terrible question. Let me try
2 it again.

3 That vehicle was not a vehicle that had
4 clearly just come off the showroom floor and had not
5 been in use based on your examination?

6 A I don't think I am qualified to make that kind
7 of decision.

8 Q It looked like there was some normal wear and
9 tear on the car?

10 A Other than the specific items that I pointed
11 out earlier, the dent and scratches, the exterior was
12 in overall good condition. So I can't say specifically
13 if it was driven out of -- I don't think I can make
14 that conclusion unless you want to rephrase the
15 question.

16 Q Okay. You didn't have any reason to believe
17 that car was in any other condition than it had been
18 owned and driven by somebody, right, or could you make
19 that conclusion?

20 A I don't think I can make that conclusion.

21 Q So it could have been an absolutely brand new,
22 right-off-the-showroom-floor car?

23 A I guess I don't have any understanding of what
24 could have happened to it in the showroom. I'm not
25 sure I understand the line of questioning.

1 THE COURT: Why don't we move on.

2 MR. JACKSON: Fair enough.

3 BY MR. JACKSON:

4 Q I guess what I'm asking is did -- you've done
5 some damage analysis in the past, obviously. This was
6 not your first rodeo, right?

7 A I don't do damage analysis on vehicles.

8 Q Okay. Did this car look like it had
9 reasonably normal wear and tear on it? That's my
10 question.

11 A I don't feel comfortable answering that
12 question.

13 Q Okay. Ultimately, the right rear taillight
14 housing was removed, correct?

15 A Yes. That's correct.

16 Q Were you the person, Ms. Hartnett, who
17 actually used the tools to remove that taillight, be it
18 screwdrivers, wrenches, anything else?

19 A No.

20 Q Okay. Who was that that actually did that
21 work?

22 A It was a Canton police officer that had
23 entered the garage. And, as I was removing it, he
24 offered to help. He said he knew how to basically take
25 it out of the housing, which at that point I was not

1 sure how I would do that.

2 Q Okay. I'd like to show you an exhibit that
3 you had been shown just a few minutes ago before the
4 lunch break, 187, with the Court's permission.

5 Does that look like the same housing that you
6 removed from the SUV or you saw being removed from the
7 SUV?

8 A Yes. That is the taillight housing that I
9 submitted to the lab from the garage.

10 Q Okay. Ultimately, there was a swab taken, you
11 mentioned on direct examination, of that taillight
12 somewhere on the housing, correct?

13 A Yes. I took a swab from that taillight.

14 Q Where exactly did you take that swab from?

15 A I took it from the outer exposed areas which
16 would have been on the outer side of the vehicle. So I
17 did not take it from the internal, what would have been
18 the internal portion of the taillight when it was
19 intact.

20 Q Can you point with the laser pointer exactly
21 where you swabbed that taillight housing?

22 A Is there a way -- can I get it zoomed in just
23 a little bit so I can differentiate the silver in the
24 front? I'm having a little trouble.

25 Q Is that zoomed in enough or do you need more?

1 A I believe -- so I took it from the red area
2 here that would have been exposed. And then if we
3 could zoom in just a little bit more just on the front
4 area so I can differentiate between the internal
5 structures and the external?

6 Q Was it one swab?

7 A Yes. That's correct.

8 Q Okay. So you swabbed multiple areas with one
9 swab and then submitted that?

10 A Yes.

11 Q So you don't know as you sit here where, if
12 any, DNA was detected, where that DNA may have come
13 from?

14 A No. That's correct.

15 Q Other than the general housing altogether?

16 A Yes. Just to finish your previous question --

17 Q Oh, I'm sorry. I didn't mean to --

18 A Just as I couldn't see it. So this area here
19 which would have been the external portion of the
20 taillight. So the areas I did not swab were any areas
21 that would have, when the taillight was intact, been
22 protected by the outer plastic housing of the
23 taillight.

24 Q Is your testimony, Ms. Hartnett, that what you
25 just pointed to was the exterior portion of the

1 taillight, bottom left?

2 A No. Just this piece of plastic here is the --
3 you know, the exterior piece of plastic.

4 Q Got it. And you swabbed that area as well as
5 other areas on the exterior like the red upper right?

6 A Yes. That's correct.

7 Q Okay. As you swabbed that, the DNA test does
8 not differentiate where you swab, just that you swab,
9 correct?

10 A Yes. That's correct. That was all one swab,
11 one collection.

12 Q Got it. So we can't define whether the DNA
13 was to the upper right, on the outside of the lens or
14 some other place that you pointed to?

15 A That's correct.

16 Q And, of course, you're familiar with touch
17 DNA, et cetera, correct?

18 A Yes. That's correct.

19 Q If you touch an item, walk away, sweaty palms,
20 there's a good likelihood I just left some DNA on this
21 podium, correct?

22 A Yes. You can transfer skin cells by touching
23 an item.

24 Q Okay. Thank you.

25 MR. JACKSON: You can take that down with the

1 Court's permission.

2 Q You also indicated that you collected glass
3 from the rear bumper of Ms. Read's Lexus, correct?

4 A Yes. I have it as apparent glass, yes.

5 Q As apparent glass. Fair enough. You labeled
6 that as Item 3-3, and it was five pieces of glass
7 labeled "A" through "E," right? "A," "B," "C," "D,"
8 "E"; is that --

9 A May I refer to my notes?

10 Q With the Court's permission.

11 THE COURT: Yes.

12 A I am just unfamiliar with the lettering "A"
13 through "E." I don't believe I had that in my notes.
14 If you can refer to the document that you have?

15 A Is it possible that -- and this is just
16 ignorance on my part. Is it possible that once you
17 submitted that for further testing, somebody else may
18 have labeled those individual pieces "A" through "E"?
19 You did not?

20 A That's possible. I did not label them "A"
21 through "E."

22 Q Okay. Got it. Understood. Thank you for
23 that clarification. As a matter of fact, you labeled
24 it as Quantity 1, correct, on an evidence submission
25 form?

1 A In the LIMS system, that's correct. Each item
2 is -- that quantity value is only used for specific
3 things. So when I submit something as one item, it
4 doesn't matter how many pieces it actually is. It's
5 just I'm submitting it as one item.

6 Q So in other words, one group?

7 A That's correct.

8 Q So we are clear, and I want to make sure that
9 these numbers are crystal clear, in that group under
10 3-3, there were five pieces of apparent glass that you
11 recovered, correct?

12 A I don't have the exact number in my notes.
13 And, honestly, it's difficult to tell from my picture.
14 So I don't want to say that I saw five pieces of glass.

15 Q Did you not annotate that somewhere, that you
16 recovered five pieces?

17 A Again, I have a photograph of it but it's
18 difficult to see on this printed page. So I didn't
19 specifically write "five pieces" anywhere.

20 Q Okay. Then let me see if I can do it this
21 way. Instead of pitching, let's catch. The person
22 that you submitted it to would have annotated exactly
23 what the grouping was that you submitted to try to be
24 accurate?

25 A I am the one that initially -- excuse me.

1 After the item was sent to fingerprinting, then I
2 examined the item. But I didn't write down exactly how
3 many pieces of glass were present. I just took a
4 photo.

5 Q And, as you sit here, you don't recall
6 necessarily now many pieces you took off that bumper?

7 A Correct. And the quality of the photo does
8 not allow me to see that at this point.

9 Q Okay. Let's take a look at that photo.

10 MR. JACKSON: With the Court's permission,
11 this is Exhibit 168. Can we show that or display
12 that, Your Honor? Mr. Bates, with the Court's
13 permission, can we zoom in on the area depicted in
14 that?

15 Q Zooming in at this point, I would ask you,
16 Ms. Hartnett, do you recognize this photo? It's zoomed
17 a little bit. Do you still recognize it?

18 A Yes, I do.

19 Q Is that a photograph that you caused to be
20 taken at the sally port on February 1st of 2022?

21 A I believe it was February 2nd.

22 Q We agreed it was February 1st, I think.

23 A February 1st. My apologies.

24 Q That's okay.

25 A Yes. On February 1st, I did request that

1 photo be taken of the apparent pieces of glass.

2 Q Okay. I know you can't see necessarily every
3 piece. Can you use your laser pointer and point to a
4 piece?

5 A Sure (indicating).

6 Q Okay. Got it. So that's the largest of the
7 pieces, correct?

8 A Yes. That's correct.

9 Q And it's correct that none of these pieces of
10 apparent glass were imbedded in the bumper; they
11 weren't dug in and stuff into that hard plastic,
12 correct?

13 A No. I do not have that notation that they
14 were imbedded, just they were on the bumper.

15 Q As a matter of fact, they were physically
16 perched on top of that hard plastic horizontal bumper,
17 correct?

18 A To my recollection, they were just sitting on
19 the bumper. Yes.

20 Q And do you know, just in your experience --

21 MR. JACKSON: And if we could leave this up
22 for just a moment while I ask the next couple of
23 questions, Your Honor?

24 THE COURT: All right.

25 BY MR. JACKSON:

1 Q Do you know where Dighton, Massachusetts is?

2 A I know the general area.

3 Q How far would you say that is from Canton?

4 A I don't know. Maybe a half an hour. I'm not
5 exactly sure.

6 Q Do your notes indicate that the vehicle was
7 recovered from Dighton and towed back to Canton and
8 placed in the sally port before you started your
9 examination?

10 A Yes.

11 Q So if the -- and you also had been apprised
12 before you began your examination that the incident in
13 question took place in Canton, correct?

14 A Yes. That's correct.

15 Q So you knew as you were looking at this
16 vehicle and doing your examination, the vehicle had to
17 have been driven, by definition, from Canton to Dighton
18 and then towed back from Dighton back to Canton,
19 correct?

20 A I was informed that the car was recovered in
21 Dighton.

22 Q And ultimately either driven back or towed
23 back? In some way, it ended up back in Canton,
24 correct?

25 A Yes.

1 Q Okay. So if Dighton is -- how far would you
2 say Dighton is from Canton?

3 A Again, I am really guessing. I would say
4 maybe a half an hour.

5 Q Thirty miles?

6 A Potentially. I don't know exactly. I was
7 never in Dighton.

8 Q Okay. So according to your notes, the glass
9 pieces that we're looking at on the back of this bumper
10 would have traveled, let's call it for round figures,
11 about 60 miles in a blizzard before you saw them?

12 A I don't know when the last pieces were --
13 ended up on the bumper. So I couldn't say.

14 Q And, of course, you knew that on February 1st,
15 you knew a few days earlier on the 29th there had been
16 a pretty significant snowstorm here in Massachusetts,
17 correct?

18 A Yes. I did have that information.

19 Q And that blizzard included high winds,
20 freezing rains, snow, all the good stuff with a
21 blizzard, correct?

22 A I don't recall the exact weather conditions of
23 the blizzard.

24 Q But, irrespective, after all of that, whatever
25 the "that" was, you saw these five pieces just sitting,

1 perched on the top of the bumper, not imbedded in any
2 way, correct?

3 A That's correct.

4 Q And you recovered those with little bitty
5 tweezers, correct?

6 A Yes.

7 MR. JACKSON: We can take this down with the
8 Court's permission.

9 Q You testified on direct examination that you
10 also found a hair on that rear panel, the quarter
11 panel, of the car, correct?

12 A Yes. At the time at the scene I noted there
13 was an apparent hair. Correct.

14 Q And the apparent hair -- and I'll try to use
15 that same word. I keep forgetting. You'll correct me.
16 That apparent hair was not sitting on the horizontal
17 bumper but on a vertical portion of the quarter panel,
18 correct?

19 A That's correct.

20 Q Did you find the hair or was that hair pointed
21 out to you by somebody else?

22 A I believe I located the hair.

23 Q How exactly was that hair secured to that
24 vertical panel if you can explain that?

25 A It didn't appear to be secured in any way. It

1 was just on that quarter panel.

2 Q Okay. So it wasn't taped?

3 A No.

4 Q It wasn't glued?

5 A No.

6 Q It wasn't stapled?

7 A No.

8 Q It was not affixed in any way whatsoever? It
9 was just perched on that vertical panel of the SUV,
10 correct?

11 A That's correct.

12 Q And for you to remove it -- and, by the way,
13 you found this at the same time that you found --
14 general time that you found the glass pieces, as well?

15 A That's correct.

16 Q So that hair potentially would have had to
17 make that same 60-mile round trip in the same blizzard?

18 A I don't know when that hair was deposited on
19 the vehicle.

20 Q Right. And it didn't take you much to remove
21 that hair, correct?

22 A I picked it off with a pair of tweezers.

23 Q It didn't give you any resistance?

24 A Not that I recall.

25 Q Okay. I'd like to take a look at that hair if

1 we can. I know you've seen it just a few minutes ago.

2 I want to look at it one more time.

3 MR. JACKSON: With the Court's permission,
4 these are Exhibits 165 and 173. If we could start
5 with 165 and publish that.

6 Q Does that look like a closeup view --

7 MR. JACKSON: Actually, is that zoomed? Can
8 we pull back out?

9 Your Honor, may I do this a different way?

10 THE COURT: All right.

11 MR. JACKSON: This is actually, with the
12 Court's permission -- Your Honor, may I approach
13 briefly?

14 THE COURT: Yes.

15 BY MR. JACKSON:

16 Q If I may hand you those very briefly, could
17 you take a look at those four photographs and tell me
18 if you recognize the first two to be Exhibits 165 and
19 173? They are not marked on there but what you earlier
20 looked at. Do those appear to be those two exhibits
21 that you earlier saw?

22 A Yes. I don't know what numbers they were, but
23 I do remember seeing these photos earlier.

24 Q Fair enough. And then the second two photos,
25 do those appear to be zoomed photos of the same two

1 photographs?

2 A Yes, they do.

3 MR. JACKSON: With the Court's permission, I
4 would ask that the zoomed photos be marked as the
5 next in order.

6 THE COURT: All right. Is there any
7 objection, Mr. Lally?

8 MR. LALLY: No, Your Honor.

9 MR. JACKSON: May I approach?

10 THE COURT: Yes.

11 (Whereupon, photographs were entered and marked
12 Exhibits No. 259 and 260 in Evidence.)

13 THE COURT REPORTER: 259 and 260.

14 THE COURT: Thank you.

15 MR. JACKSON: Thank you. May I inquire, Your
16 Honor? Yes.

17 BY MR. JACKSON:

18 Q All right. We are looking at what's
19 previously been marked as 165. Does that appear to be
20 a photo of the hair?

21 A Would it be possible just to zoom in on the
22 sticker?

23 Q Absolutely. This is not an eye contest.

24 A Just a little bit more. I'm just trying to
25 read the letter on the white marker. Yes. Correct.

1 Q So that hair looks -- as we are looking at it,
2 you will agree that that hair looks almost like a
3 backwards "C," correct? In other words, it looks like
4 it's more vertical than flat in that photograph,
5 correct?

6 A I would agree it looks like a "C" on this side
7 of the car.

8 MR. JACKSON: If we could go to Exhibit 173.

9 Q And this is the same hair photographed a
10 second time, correct?

11 A If we could again just zoom in on that
12 sticker?

13 Q Of course.

14 A Yes. That's correct.

15 Q Ms. Hartnett, does it look to you like between
16 the first and the second photographs that hair has
17 moved? It's no longer an inverted "C" but a "C"?

18 A I don't know that I necessarily agree with
19 that. I see the two ends which may still be making
20 contact with the vehicle. I can't make that
21 determination based on this photo.

22 Q Fair enough. So that was sort of my next
23 question. I'll just dovetail it this way. Did it
24 appear to you that the hair, which is curled, was
25 making contact with the vehicle on the top point and

1 the bottom point?

2 A I would say from this photo I honestly can't
3 tell if those two ends are coming off the vehicle or
4 touching the vehicle. I just can't make that
5 determination.

6 Q But you would agree that that hair was
7 somewhat precariously perched on that vertical quarter
8 panel, correct?

9 MR. LALLY: Objection.

10 THE COURT: I'll sustain the objection. Ask
11 it differently.

12 MR. JACKSON: Mr. Bates, we are finished with
13 that. With the Court's permission, we can take
14 that down.

15 BY MR. JACKSON:

16 Q If you take a look at the zoomed photos that
17 have just been marked as 259 and 260, respectively, can
18 you take a look at those side by side? And, when
19 you're finished, I'd like to ask you a question or two
20 about those.

21 A Okay.

22 Q Does it look from your perspective, seeing
23 those photos side by side, that the hair appears to
24 have gently moved just a little bit between the two
25 photos?

1 A I just don't think I can make that
2 determination. They are taken from different angles.
3 I just don't know. I can see that they have a curl in
4 both, but I don't know which ends are making contact or
5 if the ends are coming off the vehicle.

6 MR. JACKSON: May I approach, Your Honor?

7 THE COURT: Yes.

8 MR. JACKSON: Thank you.

9 BY MR. JACKSON:

10 Q Thank you, Ms. Hartnett. There is one more
11 exhibit I'd like to take a quick look at and ask you a
12 couple of questions, with the Court's permission,
13 Exhibit 195, which is a shirt.

14 THE COURT: Okay.

15 A (Witness complies.)

16 Q Do you recognize what's depicted in this
17 photograph?

18 A Yes, I do.

19 Q And you saw this just a few minutes ago on
20 direct examination, as well, correct?

21 A Yes.

22 Q You indicated that you took two swabs from
23 the, quote, "area around damage Nos. 1 through 9 of the
24 gray sweatshirt," end quote, correct?

25 A Yes. That's correct.

1 Q Can you describe for the jurors how you took
2 those swabs and were they of all nine or a select
3 number of the nine? How did you do that?

4 A I moistened two cotton swabs with sterile
5 water, and then I took those two swabs -- may I use the
6 pointer to just show?

7 Q Of course.

8 A I vigorously swabbed around this entire area.
9 So every area of damage, I swabbed around all of it,
10 using the same two swabs. So it was one collection
11 from all of those areas.

12 Q One collection on Swab 1 and one collection on
13 Swab 2. You just repeated the process?

14 A No. I took them exactly at the same time. So
15 I held the two swabs together. And, as I'm swabbing,
16 I'm rotating the swabs to make sure that all the
17 exterior of the swab is coming into contact with that
18 material in order to collect equal samples or at least
19 attempt to collect equal samples on each swab.

20 MR. JACKSON: We can take that down. Thank
21 you.

22 Q Okay. And you indicated that this was the
23 first time that you had done swabbing specifically for
24 the purpose of trying to find either canine DNA or
25 animal DNA; is that right?

1 A That's correct.

2 Q Had you been trained at the time that you took
3 the swabs, had you been trained or received any
4 training or any teaching about the relationship about
5 keratinized tissue and DNA?

6 A No.

7 Q Okay. Do you know what keratinized tissue is?

8 A No.

9 Q Did you photograph exactly where any of those
10 swabs were taken or just notate it in your notes?

11 A I notated it in my notes. That overall photo
12 is a photo that I used to describe the sample that I
13 collected.

14 Q And I think it probably goes without saying
15 you didn't videotape your swabbing technique on that
16 shirt, either, correct?

17 A That's correct.

18 Q Okay. You did include a handwritten note on
19 your report that you found, quote, "debris" from tee
20 shirt 7-17 and shirt 7-18, correct?

21 A I performed a debris collection on each of
22 those items. I don't know if that's what you're
23 referring to.

24 Q That is what I'm referring to.

25 A Okay.

1 Q So there was a note in your report that you
2 had recovered some debris or had done some debris
3 collection, correct?

4 A That's correct.

5 Q And you indicated in your note that the debris
6 was from shirt 7-17 and shirt 7-18; is that right?

7 A May I refer to my notes?

8 Q With the Court's permission.

9 THE COURT: Yes.

10 THE WITNESS: Thank you. Yes. That's
11 correct.

12 BY MR. JACKSON:

13 Q And shirt 7-17 is which shirt?

14 A The orange tee shirt.

15 Q And shirt 7-18 is which shirt?

16 A The long-sleeve gray shirt.

17 Q All right. So you took -- is the correct word
18 "scrapings"?

19 A Yes. That's correct.

20 Q Okay. You took scrapings from both shirts; is
21 that right?

22 A Yes. Correct.

23 Q And then combined those together and submitted
24 that as the quote, unquote, "debris" that was assigned
25 a new item number, 7-18.18, correct?

1 A Yes. That's correct.

2 Q So as you sit here, you don't know where the
3 debris came from specifically other than the two
4 shirts. It could be one. It could be the other. It
5 could have been a combination of both?

6 A Yes. That's correct.

7 Q Did you describe in detail anywhere the actual
8 debris that you found, little fibers, little hairs,
9 little pieces of green or blue or whatever? Anything
10 like that?

11 A If I was able to pick out a hair or a fiber, I
12 would have attempted to do that from the debris
13 collection. The debris collection was just anything
14 that was left on the item that I was not able to pick
15 off.

16 Q Okay. And you did not note any debris item
17 that was plastic or plasticine, anything like that,
18 correct?

19 A No. I did not make any kind of observations
20 on the debris, itself.

21 Q And there was no marker put on any part of the
22 debris that was recovered, correct?

23 A That's correct.

24 Q And there was no photograph taken of the
25 debris?

1 A That's correct.

2 Q And there was no videotape of the debris
3 collection?

4 A Correct.

5 Q Okay. When you received Item 7-17 and Item
6 7-18, that came in one evidence bag, did it not?

7 A Yes, it did.

8 MR. JACKSON: Your Honor, may I go through
9 them?

10 THE COURT: Yes.

11 BY MR. JACKSON:

12 Q If you wouldn't mind taking a look at that,
13 that is a photograph. I would ask you to review and
14 tell me if you recognize it, not the photograph but
15 what's depicted in the photograph.

16 A Yes, I do.

17 Q How do you recognize that?

18 A This is the container that contains the -- it
19 is a photo of the brown paper bag that contains the
20 long-sleeve gray shirt as well as the orange tee shirt.

21 MR. JACKSON: May I approach, Your Honor?

22 THE COURT: Yes.

23 MR. JACKSON: If I could ask that be marked as
24 the next in order.

25 THE COURT: Do you object, Mr. Lally?

1 MR. LALLY: No, Your Honor.

2 (Whereupon, photograph was entered and marked
3 Exhibit No. 261 in Evidence.)

4 THE COURT REPORTER: Exhibit 261.

5 MR. JACKSON: May I approach?

6 THE COURT: Yes.

7 MR. JACKSON: Thank you.

8 BY MR. JACKSON:

9 Q This evidence bag notes -- let me start over.
10 This evidence bag is in the condition that it was in
11 when you received it, meaning the writing on the bag
12 was already there when you received it?

13 A Yes. That's correct.

14 Q And it notes that it was -- these items of
15 evidence were collected by Trooper Proctor, correct?

16 A Yes. Correct.

17 Q And the date of collection was January 29,
18 2022; is that right?

19 A I'd have to relook at that.

20 Q Of course.

21 MR. JACKSON: May I approach?

22 THE COURT: Yes.

23 THE WITNESS: Yes.

24 MR. JACKSON: Your Honor, may I display --

25 THE COURT: So you got an answer.

1 THE WITNESS: My apologies.

2 MR. JACKSON: I'm sorry.

3 THE WITNESS: The date down there is January
4 29th, 2022.

5 MR. JACKSON: So I don't have to walk back and
6 forth, may I display this for the jurors with the
7 Court's permission?

8 THE COURT: Yes.

9 BY MR. JACKSON:

10 Q Okay. Does that look like what you were
11 looking at in Exhibit 261?

12 A Yes. That's correct.

13 Q Thank you. Let me see if I can stand out of
14 the way.

15 You see Trooper Proctor's name on the evidence
16 bag as the person that collected it?

17 A Yes. That's correct.

18 Q And it also has a description of what's in the
19 bag. And it shows both the orange tee shirt and the
20 gray sweatshirt collected together and bagged together,
21 correct?

22 A Yes. That's correct.

23 Q And the date, once again, on the upper right
24 is January 29th, 2022, correct?

25 A Yes.

1 Q You have no way of knowing as you sit here the
2 journey that those two items of evidence took before
3 they got to you in your lab, correct?

4 A Yes. They are tracked as soon as they are
5 entered into our laboratory system by us.

6 Q I didn't hear any of that. I'm so sorry.

7 A My apologies. The item would be tracked as
8 soon as it's submitted to our lab by us, by the crime
9 lab.

10 Q Thank you.

11 MR. JACKSON: We can take this down, Your
12 Honor. Thank you.

13 Q The debris that you ultimately got from the
14 shirt or the shirts, you don't know if that debris may
15 have been in the bag and the shirts picked up debris in
16 the bag or otherwise, correct?

17 A Correct.

18 Q Because they were housed together or stored
19 together?

20 A Yes. That's correct.

21 Q Were you aware before you began your analysis
22 on either one of those shirts that those shirts had
23 been found at the bottom of an ambulance, on the floor
24 of an ambulance at one point?

25 A I don't have any knowledge of what condition

1 the clothing was in before I got it.

2 Q And that probably answered my next question.
3 But, just for the record, you don't have any knowledge
4 personally as you sit here that either one of the
5 shirts or both of them were on the floor of a hospital
6 room, as well?

7 A I have no investigation about where the shirts
8 were.

9 Q One of the things that you did indicate in
10 your direct examination was how important it is to
11 maintain sanitary conditions with evidence to avoid
12 contamination, correct?

13 A That's correct.

14 Q For instance, you wouldn't want to take the
15 swabs that you so carefully utilized to swab an item of
16 evidence and then, oops, drop it on the floor. You
17 would have to discard that item and then start over,
18 correct?

19 A If a swab is dropped on the floor, we don't
20 discard it. We would preserve it. But that would be a
21 note we would have to put in our file. And, yes, that
22 swab would not be tested any further.

23 Q Right, because of the possibility of cross-
24 contamination?

25 A Correct.

1 Q And at least according to the evidence bag,
2 those two shirts were in the custody and control of
3 which trooper before you got them?

4 A Trooper Proctor collected the evidence
5 according to the bag.

6 Q Thank you. Ultimately, Ms. Hartnett, every
7 single piece of taillight material and clothing that
8 you've described in your testimony today on direct and
9 cross-examination, all of that evidence was presented
10 to you or to the lab at one time in one bundle on March
11 14th, 2022, correct?

12 A No. That's incorrect.

13 Q Which portion was in the lab before March
14 14th?

15 A The taillight that I collected from the
16 vehicle was submitted prior to that as well as any
17 other items that I took from the vehicle.

18 Q Okay. That was a great answer and my mistake.
19 I knew that and I forgot it.

20 So the taillight, the housing, you took on the
21 1st when you left?

22 A Correct.

23 Q Every other item other than the taillight
24 housing, itself, which you took personal possession of,
25 all the taillight fragments, all the clothing, orange

1 shirt, gray shirt, jeans, shoes, everything, was all
2 submitted in one fell swoop on March 14th, 2022; is
3 that right?

4 A No.

5 Q What else am I incorrect about?

6 A So I just wanted to -- anything that was
7 collected from the vehicle as well as the swabs from
8 the red Solo cups and the drinking glass that I was
9 presented with at Canton P.D. was submitted by me on
10 February 1st. The other items, the clothing items,
11 were submitted together. And then there was another
12 submission that had the fingernails and the known blood
13 standards.

14 So there were several submissions. So I am
15 hesitant to lump it all into one because it did happen
16 on different dates.

17 Q Okay. Fair enough. Can we agree that the
18 earliest submission with the exception of the stuff
19 that you actually took with you from the sally port,
20 the taillight material and whatever swabs that you took
21 -- I'm sorry, the taillight housing and whatever swabs
22 you took, all of the other material that was submitted
23 to the lab, all of the other evidence, the earliest
24 date anything was submitted was March 14th, 2022?

25 A If you don't mind, I'm just going to take

1 another look at my submission forms.

2 Q Of course.

3 MR. JACKSON: Your Honor, may I approach?

4 THE COURT: Yes.

5 MR. JACKSON: I think I have a two-page
6 document. I'll show Mr. Lally.

7 BY MR. JACKSON:

8 Q Is that a copy of your submission form?

9 A Yes, it is.

10 Q Okay. If you could familiarize yourself with
11 that for just a quick second?

12 A Yes.

13 MR. JACKSON: May I approach one more time,
14 Your Honor?

15 THE COURT: Yes.

16 BY MR. JACKSON:

17 Q I have one more document I'm going to ask you
18 to take a glance at.

19 A (Witness complies.)

20 Q Do you recognize that document?

21 A Yes.

22 Q What is that document, the second document
23 that I just handed you?

24 A This is a printed chain of custody report from
25 our laboratory information management system.

1 MR. JACKSON: Your Honor, with the Court's
2 permission, I'd like to mark the --

3 BY MR. JACKSON::

4 Q The first document's name again? I'll get it
5 right.

6 A It's the evidence submission form for
7 Submission 7.

8 MR. JACKSON: Evidence submission form for
9 Submission 7, a two-page document. If I could have
10 that marked as the next in order and then the --

11 THE WITNESS: Chain of custody report.

12 THE COURT: Is there an objection, Mr. Lally?

13 MR. LALLY: Yes, to both, Your Honor.

14 THE COURT: So the objection is sustained
15 unless you want to convince me otherwise.

16 MR. JACKSON: I'll have them marked for I.D.
17 if that is appropriate, Judge, if that's okay with
18 the Court?

19 THE COURT: Yes.

20 THE COURT REPORTER: That will be "UU" and
21 "VV."

22 (Whereupon, evidence submission form was entered
23 and marked Exhibit No. "UU" for Identification.)

24 (Whereupon, chain of custody report was entered and
25 marked "VV" for Identification.)

1 THE COURT: There are Post-its on the other
2 one. Do you want to take them off?

3 MR. JACKSON: I was actually going to ask if
4 -- I think they will help the witness. It will go
5 a lot faster with those Post-its on it.

6 BY MR. JACKSON:

7 Q If you could take a look at what's been marked
8 as "VV," that's the log. I just want to go through
9 this relatively quickly.

10 With regard to plastic pieces that were
11 submitted, if you look on, for instance, page 11, where
12 a tab is --

13 A Yes.

14 Q -- that shows that that piece was submitted on
15 March 14th, correct?

16 A Yes. That's correct.

17 Q And there was a piece submitted on March 14th
18 notated on page 12?

19 A What item are you referring to?

20 Q It's a plastic piece.

21 A Yes. Correct.

22 Q Page 13, another plastic piece?

23 A Yes, submitted on March 14th.

24 Q And page 14, another plastic piece?

25 A Yes. That's correct.

1 Q Page 15, another plastic piece?

2 A Correct.

3 Q And page 17?

4 A Yes. That's correct.

5 Q And then, if you return to the next page, page
6 18, that's the orange tee shirt that shows its
7 submission date, correct?

8 A Yes. That's correct.

9 Q And what is that date?

10 A March 14th.

11 Q And then on page -- on the very bottom page
12 20, going into page 21, there is another item, the gray
13 tee shirt or gray sweatshirt?

14 A Yes. That was also submitted on March 14th.

15 Q Okay. Thank you.

16 MR. JACKSON: If I may approach?

17 THE COURT: Yes.

18 MR. JACKSON: Thank you.

19 THE COURT: So we need those. They are marked
20 for identification.

21 MR. JACKSON: I'm not sure if I'm going to use
22 it one more time.

23 THE COURT: Why don't you put it up on the
24 bench.

25 MR. JACKSON: Of course.

1 THE COURT: You can grab it.

2 MR. JACKSON: May I?

3 THE COURT: Yes.

4 BY MR. JACKSON:

5 Q Ms. Hartnett, before you received all of the
6 items that we've talked about and all the items that
7 you've testified about, with the exception of the items
8 that you physically took with you from the sally port,
9 everything else that you've testified to was submitted
10 to you on March 14th or after, correct?

11 A That's correct.

12 Q And all submitted by Trooper Proctor, correct?

13 A I know they were all submitted by the Norfolk
14 County Detective Unit. I don't know the specific
15 officer that necessarily dropped them off at the lab.

16 Q Can you answer the question based on the log
17 information that you have and the chain of custody that
18 you have in front of you, can you answer the question
19 whether Trooper Proctor or anybody else stored the
20 taillight lens material and the clothing in the same
21 place or in the same bag before you received it?

22 A I'm sorry. Can you just repeat that question
23 one more time?

24 Q Sure. Based on the log information that you
25 have, in other words, the chain of custody that's in

1 front of you that you can absolutely look at and
2 determine where things were and who had them, can you
3 tell us whether or not Trooper Proctor or anybody else
4 stored any of the taillight material and the clothing
5 in the same place or even in the same bag?

6 A No. I don't have any information to how the
7 evidence was treated before it was received in the lab.

8 Q In fact, that's because there is no chain of
9 custody for that data -- I'm sorry -- for those items,
10 there's no data for those items predating March 14th,
11 correct?

12 MR. LALLY: Objection.

13 THE COURT: Sustained.

14 BY MR. JACKSON:

15 Q You don't personally have any chain of custody
16 information about those items we just went over
17 predating March 14th; do you?

18 A I personally do not have any data that would
19 indicate where those items of evidence were prior to
20 them being accepted into the lab.

21 Q And one of the reasons why you have such
22 detailed chain of custody protocols is to maintain
23 control over where items go and how they are handled
24 and by whom, correct?

25 A That's correct.

1 MR. JACKSON: Thank you. I have nothing
2 further at this time.

3 THE COURT: Okay. Anything, Mr. Lally?

4 MR. LALLY: Just a couple.

5 REDIRECT EXAMINATION

6 BY MR. LALLY:

7 Q The vehicle that you observed, the defendant's
8 vehicle, in the sally port of the Canton Police
9 Station, that was in generally overall good condition
10 other than the areas of damage that you noted on the
11 right rear, correct?

12 A Yes. That's correct.

13 Q And, when you were swabbing, the swabs that
14 you took from the taillight housing that you then later
15 submitted to DNA, that was a taillight housing that you
16 took from the Canton Police Station, correct?

17 A Yes. That's correct.

18 Q You logged that into the lab?

19 A Yes, I did.

20 Q You took those swabbings and then you packaged
21 them and you sent them to the DNA, correct?

22 A Yes. That's correct.

23 Q And all of those swabbings were taken from the
24 exterior area of that taillight assembly; is that
25 correct?

1 MR. JACKSON: Objection, Your Honor.

2 THE COURT: The objection is sustained as to
3 the form.

4 BY MR. LALLY:

5 Q With regard to those swabbings that you took
6 from the taillight housing, where on the taillight
7 housing did you take them from?

8 A I took them from what would have been the
9 exposed area of the taillight should the taillight have
10 been intact. So I did not collect from any of the
11 interior portions of the taillight that would have been
12 protected by the exterior plastic piece.

13 Q Now, at the time that you were looking at the
14 vehicle in the sally port of the Canton Police Station,
15 do you recall what the temperature was inside the
16 garage?

17 A No. I don't have that information.

18 Q Was the temperature the same inside the garage
19 as it was outside of the garage? If you know, was it
20 heated at all?

21 A I don't know if it was heated.

22 Q As far as the vehicle, itself, was concerned,
23 when you saw it in the garage, did you see any sort of
24 frozen snow or ice or anything like that on the
25 exterior of the vehicle?

1 A Not to my recollection, no.

2 MR. LALLY: I have nothing further, Your
3 Honor.

4 THE COURT: Anything?

5 MR. JACKSON: One follow-up question.

6 THE COURT: Okay.

7 MR. JACKSON: May I publish, Your Honor?

8 THE COURT: Yes.

9 RECROSS-EXAMINATION

10 BY MR. JACKSON:

11 Q If you'd take one more look at what's been
12 marked for identification as "UU," that is the evidence
13 submission form, correct?

14 A Yes. That's correct.

15 Q Who signed that form?

16 MR. LALLY: Objection.

17 THE COURT: So the objection is sustained
18 unless you want to see me at sidebar.

19 MR. JACKSON: I'll ask you a different way,
20 Your Honor.

21 BY MR. JACKSON:

22 Q Whose name is on the bottom of the form?

23 MR. LALLY: Objection.

24 THE COURT: That's the same question.

25 MR. JACKSON: I thought I'd try.

1 THE COURT: Do you want to come up to
2 sidebar?

3 MR. JACKSON: Yes, Your Honor.

4 THE COURT: May I have that, please, Ms.
5 Hartnett?

6 (Whereupon, there was a sidebar conference as
7 follows:)

8 THE COURT: Okay. What is your objection?

9 MR. LALLY: It's beyond the scope.

10 THE COURT: It is beyond the scope. Are you
11 getting into this very limited redirect?

12 MR. JACKSON: Because the entire issue is
13 that --

14 THE COURT: Sorry. That's my fault, Nancy.

15 MR. JACKSON: It probably technically is but
16 if I could ask to reopen, it calls for one
17 question.

18 THE COURT: No. It's beyond the scope.

19 MR. JACKSON: I can get it in through
20 Trooper Proctor, but it's so much easier to ask her
21 one question: who signed it.

22 THE COURT: It's hearsay. It's hearsay. It's
23 beyond the scope. You can get it in through
24 Proctor.

25 MR. JACKSON: Okay.

1 THE COURT: I'm convinced you'll be able to
2 get it in at some point.

3 MR. JACKSON: I will.

4 THE COURT: But just not here. I'm not going
5 to start relaxing that.

6 MR. JACKSON: All right. That's fair.
7 (Whereupon, the sidebar conference concluded.)

8 MR. JACKSON: Thank you. I have no further
9 questions.

10 THE COURT: All right, Ms. Hartnett. You are
11 all set.

12 (Whereupon, the witness is excused.)

13 THE COURT: All right. Your next witness,
14 Mr. Lally?

15 MR. LALLY: Yes, Your Honor. The Commonwealth
16 calls Mx. Ashley Vallier to the stand.

17 THE COURT: Mr. Lally, would you remove the
18 exhibits up on the witness stand?

19 MR. LALLY: Yes, Your Honor.

20 Whereupon,

21 ASHLEY VALLIER

22 having been first duly sworn, was examined and
23 testified under oath as follows:

24 THE COURT: All right. Mr. Lally, whenever
25 you're ready.

1 MR. LALLY: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MR. LALLY:

4 Q Good afternoon. Would you please state your
5 name and spell your last name for the jurors?

6 A My name is Ashley Vallier, spelled
7 V-A-L-L-I-E-R.

8 Q And, Mx. Vallier, what do you do for work?

9 A I'm a forensic scientist at the Massachusetts
10 State Police Crime Laboratory.

11 THE COURT: Mx. Vallier, I am going to ask you
12 to keep your voice up.

13 THE WITNESS: Okay.

14 THE COURT: What we've been doing is we've had
15 to turn the air-conditioner off when we can't hear.

16 THE WITNESS: Okay.

17 BY MR. LALLY:

18 Q And how long have you been employed at the
19 Massachusetts State Police Crime Lab?

20 A Just over five years.

21 Q And if I could ask you just a little bit about
22 your educational background, starting with your
23 undergraduate work. Where did you go to school for
24 that?

25 A I have a Bachelor of Science Degree in

1 Biochemistry and Cell Biology from the University of
2 California, San Diego.

3 Q And, following your receipt of that degree,
4 where did you go from there?

5 A I have a Master of Science Degree in
6 Biomedical Forensic Sciences from Boston University.

7 Q Once you received that master's, where did you
8 go to work after that?

9 A I worked at the Brode Institute for about six
10 months before getting a job at the Massachusetts State
11 Police Crime Laboratory.

12 Q And, as far as your work at the Brode
13 Institute, that's located in Cambridge; is that
14 correct?

15 A Correct.

16 Q And what type of work did you do at the Brode
17 Institute?

18 A I worked for the Center for the Development of
19 Therapeutics Department doing quality control checks on
20 compounds that they think could have potential to be
21 therapeutic drugs.

22 Q And so you went to work for the Mass. State
23 Crime Lab or the MSPCL in early 2019; is that correct?

24 A Correct.

25 Q And, when you first went to work for the

1 MSPCL, what unit were you initially assigned to?

2 A The trace arson and explosives unit.

3 Q Is that the unit that you still currently work
4 in?

5 A It is.

6 Q And so you started with the lab as a Forensic
7 Scientist I; is that correct?

8 A Correct.

9 Q And so what sort of steps or what kind of
10 training did you go through in order to go from being a
11 Forensic Scientist I to being the Forensic Scientist II
12 that you are now?

13 A A Forensic Scientist I is the initial job that
14 you're hired as. After you've been at the lab for a
15 year and once you're qualified and signed off to do
16 casework, you become a Forensic Scientist II.

17 Q Now, within the trace unit, can you describe
18 to the jury sort of what types of things you're looking
19 at or what types of analysis that you do with regard to
20 working in the trace unit specifically?

21 A What I do or what the unit does?

22 Q First, as far as in general terms, what does
23 the unit do?

24 A The unit has a lot of disciplines. So there's
25 fire debris examination, explosives examination, serial

1 number restoration, gunshot residue analysis, fibers,
2 paint, glass, physical match, trace recovery.

3 Q And, specific to yourself, what is it that you
4 do within the trace unit?

5 A I do gunshot residue analysis, trace recovery
6 and physical match analysis.

7 Q And, as far as each of those respective
8 categories, are those the things that you've done
9 essentially your time there in your specialty as a
10 Forensic Scientist II?

11 A Yes.

12 Q Now, with regard to as far as the physical
13 match component that you were talking about, can you
14 explain to the jury just again in general terms sort of
15 what goes into that or what are you looking at? What
16 are you doing in regard to your analysis with that?

17 A Physical match analysis is looking at two or
18 more items that have broken or irregular edges and
19 seeing if they fit together sort of like a jigsaw
20 puzzle.

21 Q And, when you're doing that examination of
22 various items with respect to that, what types of
23 instruments are you using or what types of ways are you
24 looking at these from an instrumental perspective?

25 A It is mostly the stereo zoom microscope, which

1 is a microscope that's mounted on a stand so that I can
2 look at larger objects, not just slides like in science
3 class.

4 Q Now, over the course of your work with the
5 lab, you're familiar that the lab is accredited; is
6 that correct?

7 A Correct.

8 Q And that's accredited by an organization known
9 as ANAB?

10 A Correct.

11 Q And, with respect to that accreditation, what,
12 if any, testing or what, if any, examinations or
13 continuing education do you have to undergo in order
14 for that accreditation either for yourself or for the
15 lab, itself?

16 A As part of the accreditation, analysts that
17 are signed up for casework do proficiency tests every
18 year.

19 Q And have you done proficiency testing over the
20 course of you five years with the lab?

21 A I have.

22 Q And, specifically, what types of areas have
23 you taken proficiency testing in?

24 A I've taken proficiency tests in gunshot
25 residue analysis and physical match of pieces.

1 Q So with respect to sort of each of the various
2 areas of work that you do within the lab; is that
3 correct?

4 A Except for trace recovery, but yes.

5 Q And, with respect to each of those as far as
6 the proficiency testing was concerned, you've
7 successfully completed each of those?

8 A I have.

9 Q Now, if I could turn your attention to at some
10 point over the course of your work within the trace
11 unit in the lab, did you become involved with Lab Case
12 No. 22-02184?

13 A I did.

14 Q And there is a name that's associated with
15 that lab number, as well; is that correct?

16 A A name?

17 Q A name as far as a suspect or a defendant or
18 something like that?

19 A Yes.

20 Q And whose name is that?

21 A Karen Read.

22 Q And, as far as your work within the trace
23 unit, how is it that you came to be involved or what
24 piece of analysis did you become initially involved in
25 with respect to Ms. Read's case?

1 A I was assigned to do physical match analysis
2 on, well, many different items.

3 Q Before we get to the physical match, was there
4 something -- what, if anything, were you asked to do
5 with regard to some clothing items associated with a
6 John O'Keefe?

7 A I believe I later received debris that was
8 collected from those clothing items.

9 Q And so debris. Specifically, do you recall
10 which clothing items you received debris from?

11 A I do not, not without looking at my notes.

12 MR. LALLY: Your Honor, with the Court's
13 permission, may the witness look at her notes?

14 THE COURT: Yes, you may.

15 BY MR. LALLY:

16 Q And is your memory refreshed as to which items
17 of clothing you looked at?

18 A Yes. So it was -- well, I didn't look at
19 clothing. I just received the debris that was already
20 packaged which is labeled as coming from jeans, boxer
21 shorts, sneakers, gray long-sleeve shirt and orange tee
22 shirt.

23 Q Now, with respect to each of those items they
24 had a lab sort of label number associated with it; is
25 that correct?

1 A Correct.

2 Q And is it your understanding that the larger
3 piece of clothing would have been labeled 7-something
4 and then the debris from that clothing would have been
5 labeled 7-, same thing, .whatever? Does that sound
6 familiar?

7 A It does, yes.

8 Q And so with specific reference to Item 17-
9 18.18, that was debris from an orange tee shirt; is
10 that correct?

11 A Yes.

12 Q And specifically, debris from an orange tee
13 shirt and a gray long-sleeve shirt, correct?

14 A Correct.

15 Q And, from your analysis of that debris, what,
16 if any, examination did you do of that debris that was
17 provided to you within the trace unit?

18 A So each of these items was packaged in, you
19 know, a fold. So I opened up the fold and looked at
20 the items under the stereo zoom microscope and
21 documented it with photos.

22 Q And, as far as that item, 7-18.18, what, if
23 anything, did you observe as far as contained within
24 the debris from that item specifically?

25 THE WITNESS: May I look at my notes?

1 THE COURT: Yes.

2 THE WITNESS: Okay. Thank you. There was
3 apparent dirt and debris; many black and gray, blue
4 and orange apparent fibers; several pieces of red
5 apparent plastic; several apparent hairs; one piece
6 of green material; and one piece of clear apparent
7 plastic.

8 BY MR. LALLY:

9 Q And the clear apparent plastic, what, if any,
10 measurements did you conduct with reference to that?

11 A It measured approximately one-eighth of an
12 inch by one-sixteenth of an inch.

13 Q Now, from your analysis of those items, what,
14 if anything -- do you know where within the lab they
15 went following your analysis there?

16 A I believe another analyst in the trace unit
17 then looked at those items.

18 Q And that would be a -- are you familiar with
19 another person who works in the trace unit named
20 Christina Hanley?

21 A I am.

22 Q And so what, if any, training does Ms. Hanley
23 have that you do not have in order to conduct that sort
24 of further analysis?

25 A So Christina Hanley is the trace supervisor,

1 and she is signed off to do casework in fibers,
2 miscellaneous paint, glass, the other trace disciplines
3 that I am not.

4 Q So essentially those items contained within
5 that debris were something that you examined
6 microscopically, made observations of, took
7 measurements and then they went to Ms. Hartnett?

8 A Correct.

9 Q Now, with respect to -- you mentioned some
10 variety of plastic items that you examined, correct?

11 A The initial items that I looked at?

12 Q Yes.

13 A Yes.

14 Q And what were those? Generally speaking, what
15 were those initial items that you looked at?

16 A There were many different items containing
17 what I believe were recovered from an address. But I
18 would have to look at my notes to --

19 THE COURT: You may.

20 THE WITNESS: So they are all labeled as
21 coming from -- as recovered from 34 Fairview Road.

22 BY MR. LALLY:

23 Q And what types of items were they specifically
24 that you had received?

25 A So it was many pieces of apparent plastic and

1 apparent glass and one drinking straw.

2 Q And those items were generally labeled as Item
3 7-5 through 7-10? Does that sound familiar?

4 A Yes.

5 Q And, with reference to the process in general
6 terms of when you received these items, can you explain
7 to the jury sort of your process and what you did and
8 what you looked at as you went through each of these
9 respective items?

10 A Sure. So at the beginning of a physical match
11 case, you always look at the questioned items first
12 which are the ones that you don't know where it came
13 from. Like, here, they are labeled as coming from the
14 road. So you don't know where their actual source of
15 origin is.

16 And so what we'll do is we'll scan that item
17 into my custody. And then I will document the
18 packaging with photographs and then I'll open that item
19 and then document that item as it is. And, if there
20 are multiple pieces, each piece will get a designator
21 like Piece "A," Piece "B," "Piece "C." All this gets
22 documented, written down in my notes and in
23 photographs.

24 If any of those pieces look like they could
25 possibly fit together, then I will look under the

1 stereo zoom and see if they do, in fact, fit together
2 and document it if they do. And then once I've
3 finished documenting that, I'll repackage it in the
4 original packaging.

5 And then if there are multiple items like in
6 this case there were, then once that first item is
7 sealed up, then I'll clean my bench and I'll open the
8 second item and do the same thing until all of the
9 items have been documented.

10 Q Again, if you could describe to the jury sort
11 of the physical process of what you did in this case
12 with respect to these items as far as how were you
13 looking at them sort of physically? What did you do
14 with those items?

15 A So I said, I opened up each of these items
16 individually, took photos, took notes, looked at them
17 under the stereo zoom, stereo zoom microscope and then
18 looked at my photos after I had -- I had looked at all
19 of them. They'd all been packaged in their original
20 packaging. And I look at the photographs to see if any
21 of those pieces could possibly fit together.

22 And, then, once I looked at the photos and saw
23 that it looked like there were possible physical match
24 fits among those questioned items, then I opened up
25 those items and looked to see if they, like, in real

1 life versus just on photos, see if they could have a
2 potential physical match. If it looked like it did,
3 then I brought them together and looked at them to
4 confirm if there was a physical match.

5 MR. LALLY: Your Honor, may I approach?

6 THE COURT: Yes.

7 BY MR. LALLY:

8 Q Mx. Vallier, I am showing you a series of nine
9 photographs. I just ask you to look at those and look
10 up when you're finished.

11 A (Witness complies.)

12 Q Do you recognize those?

13 A Yes.

14 Q And what do you recognize those to be?

15 A Item 7-5.

16 Q And is that how it was presented to you or
17 shown to you as far as the evidence bag that you opened
18 and the items that were contained within?

19 A I mean, this is just a picture of the seal,
20 not the entire bag. But yes.

21 MR. LALLY: Your Honor, the Commonwealth seeks
22 to introduce and admit as the next exhibits.

23 MR. YANNETTI: No objection.

24 (Whereupon, photographs were entered and marked
25 Exhibits No. 262 through 270 in Evidence.)

1 THE COURT REPORTER: Exhibits 262 through 270.

2 MR. LALLY: Your Honor, with the Court's
3 permission, may I publish some of these photographs
4 to the jury, please?

5 THE COURT: Okay.

6 MR. LALLY: And, Ms. Gilman, if I could have
7 Photograph 1905.

8 BY MR. LALLY:

9 Q Mx. Vallier, what's up on the screen is
10 Photograph 1905 which has now been marked as Exhibit
11 262. Do you recognize that?

12 A I do.

13 Q And is that the evidence bag that you were
14 presented with with regard to items labeled as 7-5?

15 A That is the seal on it. Yes.

16 Q Now, just in general terms, as far as this
17 process that you're talking about, sort of fitting the
18 puzzle pieces together, how long and how laborious a
19 process did that entail?

20 A In this case specifically?

21 Q Yes.

22 A There were many items to look at. So it did
23 take quite a bit of time.

24 MR. LALLY: And if I could have Photograph
25 1908.

1 Q And do you recognize what's up on the screen
2 which has now been marked as Exhibit 263?

3 A I do.

4 Q Is that one of the pieces that you have from
5 Item 7-5?

6 A Those are the three pieces in 7-5.

7 Q Okay. And so the three pieces from all that
8 were all red apparent plastic pieces from that same
9 item; is that correct?

10 A Correct.

11 MR. LALLY: May I approach the witness, Your
12 Honor?

13 THE COURT: Yes.

14 BY MR. LALLY:

15 Q I show you these photographs. If you could
16 take a look at those and look up when you are finished.

17 A (Witness complies.)

18 Q Do you recognize what's depicted in those
19 photographs?

20 A I do.

21 Q And what do you recognize those to be?

22 A The seal and then the items from Item 7-6.

23 Q And what's contained in those photographs, is
24 that a fair and accurate portrayal of what you observed
25 when you were doing your analysis in the lab?

1 A Yes.

2 MR. LALLY: Your Honor, the Commonwealth would
3 seek to introduce and admit as the next exhibits.

4 MR. YANNETTI: No objection.

5 (Whereupon, photographs were entered and marked
6 Exhibits No. 271 through 277 in Evidence.)

7 THE COURT REPORTER: Exhibits 271 through 277,
8 Your Honor.

9 THE COURT: Thank you.

10 BY MR. LALLY:

11 MR. LALLY: And, Your Honor, with the Court's
12 permission, if I could publish some of those
13 photographs to the jury at this time?

14 THE COURT: Okay.

15 MR. LALLY: Ms. Gilman, if I could have
16 Photograph 1921. Okay. Ms. Gilman, if you could
17 just rotate that? Thank you.

18 BY MR. LALLY:

19 Q So Mx. Vallier, what's up on the screen, and
20 that's Photograph 1921, Exhibit 271, that is the
21 evidence bag or box that contains the items in
22 reference to Lab Item 7-6; is that correct?

23 A Correct.

24 Q And, with reference to that as far as the
25 labeling is concerned, these are items that were

1 submitted by the state police, correct, as far as you
2 know?

3 A Yes.

4 Q And, from the labeling that's exhibited in --
5 the labeling that's being shown in Exhibit 271, that
6 actually has an indication of who the submitting agency
7 is and the date that the item was collected, correct?

8 A Presumably. I don't know because that's not
9 our lab's labeling system.

10 Q Okay. Would it be fair to say as far as your
11 observation of these evidence bags as you were opening
12 them or boxes as you were opening them, they had
13 different dates on them, some of them; is that correct?

14 A I don't know.

15 Q If you know.

16 A I don't know.

17 MR. LALLY: Ms. Gilman, if I could have
18 Photograph 1924.

19 Q Now, what's up on the screen that's now been
20 marked as Exhibit 272, these were the items that were
21 marked within that box or that bag of Item 7-6; is that
22 correct?

23 A Correct.

24 Q It appears two pieces of plastic, correct?

25 A Apparent plastic, yes.

1 MR. LALLY: May I approach the witness, Your
2 Honor?

3 THE COURT: Yes.

4 BY MR. LALLY:

5 Q I show you another series of photographs. If
6 you could review those and look up when you're
7 finished.

8 A (Witness complies.)

9 Q And do you recognize what's depicted in those
10 photographs, ma'am?

11 A I do.

12 Q And what do you recognize those to be?

13 A Item 7-8.

14 Q And, again, a fair and accurate portrayal of
15 what you observed in the lab with reference to Item
16 7-8?

17 A Yes

18 MR. LALLY: The Commonwealth would seek to
19 introduce those as the next exhibit, Your Honor.

20 MR. YANNETTI: No objection.

21 (Whereupon, photographs were entered and marked
22 Exhibits No. 278 through 292 in Evidence.)

23 THE COURT REPORTER: Exhibits 278 through 292,
24 Your Honor.

25 THE COURT: Thank you.

1 MR. LALLY: And, Your Honor, with the Court's
2 permission, may I publish some of these photos to
3 the jury, as well?

4 THE COURT: Yes.

5 BY MR. LALLY:

6 Q Mx. Vallier, with regard to the items that
7 were contained within this variety of bags and boxes
8 that you had received as evidentiary items, what, if
9 any, difference was there between sort of the color,
10 the size, the shape of the different items that you
11 received?

12 A I'm sorry. Can you repeat the question?

13 Q Sure. Were they all sort of uniform as to
14 their color, as to their size, as to their shape or
15 what, if any, differences did you note between them?

16 A Between items that you've already published or
17 just all of them --

18 Q All of them in general.

19 A So some of the pieces were clear apparent
20 plastic. Some were clear apparent glass. Some of them
21 were red apparent plastic. Some of them were silver
22 colored apparent plastic.

23 Q And, as far as the size of these pieces of
24 plastic or glass that you had received, were they --
25 how would you describe sort of their physical size,

1 shape, things of that nature?

2 A Some of them were very small and some of them
3 were larger. I can't tell you the dimensions without
4 looking at my notes.

5 Q And you took measurements with respect to each
6 of the pieces that you analyzed, each of the pieces
7 that you examined and each of the pieces that you
8 ultimately tried to find a match for, correct?

9 A Correct.

10 MR. LALLY: Ms. Gilman, if I could have
11 Photograph 1931.

12 Q What's up on the screen has now been marked as
13 Exhibit 278. Do you recognize that as the bag or box
14 that contained Items 7-8?

15 A Yes.

16 MR. LALLY: Ms. Gilman, if I could have 1934?

17 Q Now, what's contained in this exhibit up on
18 the screen, Exhibit 279, do you recognize that as the
19 contents that were collectively sort of labeled as Item
20 7-8?

21 A I do.

22 Q And so from a variety of those different
23 pieces that are depicted up on the screen in Exhibit
24 279, each of them would have been respectively labeled
25 as far as, say, 7-8.1 or 7-8. something else; is that

1 fair to say?

2 A So the laboratory number system where it would
3 go 7-8.1, that's if you take like a sub-sample. So if
4 I collected like debris or something out of this item,
5 that would then be labeled 7-8.1 because it's a new
6 entry in our LIM system. These are just the different
7 pieces in 7-8. In my notes, I gave them labels such as
8 Piece "A," Piece "B," Piece "C," all the way down to --
9 well, however many there were.

10 Q So you label them individually as sort of
11 letters; is that correct?

12 A Correct.

13 Q Okay.

14 MR. LALLY: Ms. Gilman, if I could have
15 Photograph 1938. If you could zoom in just a
16 little bit on that, Ms. Gilman.

17 Q Mx. Vallier, what's depicted up on the screen
18 within this Exhibit 282, do you recognize that?

19 A I do.

20 Q Is that one of the pieces that was submitted
21 within this as far as 7-8 that you examined throughout
22 the course of your analysis here, correct?

23 A It was. There were actually two pieces in
24 that. There is the large one in the middle, and there
25 is a very small one up in the corner.

1 MR. YANNETTI: May we approach, Your Honor?

2 THE COURT: Yes.

3 (Whereupon, there was a sidebar conference as
4 follows:)

5 MR. YANNETTI: Now that we've seen what's
6 coming in, we are registering an objection to the
7 fact that he already has testified as to where and
8 when these objects were found. And, really, they
9 need to have testimony first making these pieces of
10 evidence relevant before they start to get into --

11 THE COURT: All right. Jurors, why don't we
12 take a five-minute, 10-minute break. Okay?
13 (Whereupon, the jury is escorted from the courtroom
14 for a brief recess.)

15 (Whereupon, the sidebar conference continued as
16 follows:)

17 THE COURT: Mr. Lally, is this from the
18 housing?

19 MR. LALLY: No. So what this witness did was
20 basically take each of the individual pieces that
21 were recovered at various times and then she was
22 then able to do a physical match with them to each
23 other and then a physical match with them to the
24 housing.

25 THE COURT: So your objection is you don't

1 know where this came from?

2 MR. YANNETTI: Correct.

3 THE COURT: Even though she identified the bag
4 and --

5 MR. YANNETTI: Well, she identified it, but we
6 don't know how they got within the bag, who found
7 it and where.

8 MR. LALLY: As I explained, I had to take this
9 witness out of turn, which is what I raised with
10 the Court and counsel last week. So that's why her
11 testimony is coming prior to the troopers that
12 recovered the items.

13 MR. YANNETTI: I mean, our objection is our
14 objection. If the Court decides to --

15 THE COURT: Last week you said it was okay.

16 MR. YANNETTI: Well, if the Court decides to
17 take it de bene, I suppose subject to those
18 witnesses being called to identify what's being
19 introduced now.

20 THE COURT: Okay. So do you withdraw your
21 objection though you agreed to it last week?

22 MR. YANNETTI: Can I have a moment, Judge?

23 THE COURT: Yes.

24 MR. YANNETTI: Just so I'm cutting to the
25 chase here, we don't want this witness to be able

1 to testify to what specifically Michael Proctor
2 found. We don't want this witness to absolve the
3 Commonwealth of its responsibility to call the lead
4 investigator who actually found against -- sorry --

5 THE COURT: All right. Well, I'm not going to
6 tell the Commonwealth who they have to call or not.
7 But if you think that they are not ultimately able
8 to lay a foundation, you can move to strike it.

9 MR. JACKSON: That's fine.

10 MR. YANNETTI: Okay. I just need two minutes.

11 THE COURT: Court Order: Jurors or Juror Issues

12 So we'll make this quick. Your witness is
13 going to have to come back on Wednesday.

14 MR. YANNETTI: Understood. Well, do you have
15 a lot left with her or them? I'm not going to be
16 very lengthy.

17 THE COURT: Court Order: Jurors or Juror Issues

18
19 MR. YANNETTI: No, no. I understand. That's
20 fine.

21 MR. LALLY: Thank you.

22 (Whereupon, the sidebar conference concluded and a
23 brief recess was taken.)

24 (Court resumes.)

25 (Defendant present. Jury present.)

1 MR. LALLY: May I approach the witness again,
2 Your Honor?

3 THE COURT: Yes.

4 BY MR. LALLY:

5 Q Showing you these photographs, would you look
6 at those.

7 A (Witness complies.)

8 Q Do you recognize those, ma'am?

9 A I do.

10 Q What do you recognize those to be?

11 A Photos that I took of Item 7-10.

12 MR. LALLY: May I approach?

13 THE COURT: Yes.

14 MR. LALLY: The Commonwealth would seek to
15 introduce them as the next exhibits.

16 MR. YANNETTI: No objection.

17 (Whereupon, photographs were entered and marked
18 Exhibits No. 293 through 295 in Evidence.)

19 THE COURT REPORTER: Exhibits 293, 294 and
20 295.

21 THE COURT: Thank you.

22 MR. LALLY: With the Court's permission, if I
23 could publish that to the jury?

24 THE COURT: Yes.

25 MR. LALLY: Ms. Gilman, if I could have

1 Photograph 1952.

2 BY MR. LALLY:

3 Q Mx. Vallier, what's depicted up on the screen,
4 is that the bag or the box that contains Item 7-10?

5 A Yes.

6 MR. LALLY: Ms. Gilman, if I could have 1955.

7 Q Again, what's up on the screen, is that the
8 item that was contained within that evidence?

9 A Yes.

10 MR. LALLY: May I approach the witness again,
11 Your Honor?

12 THE COURT: Yes.

13 BY MR. LALLY:

14 Q I'm showing you another series of photographs.
15 If you could review those and look up when you're
16 finished.

17 A (Witness complies.)

18 Q Mx. Vallier, do you recognize what's depicted
19 in those photographs?

20 A I do.

21 Q And what do you recognize those to be?

22 A The packaging that Item 7-9 and 7-19 came in.

23 Q And what's contained within those photographs,
24 is that a fair and accurate portrayal of those items
25 when you received them at your station within the trace

1 unit?

2 A It is.

3 MR. LALLY: Your Honor, may I approach?

4 THE COURT: Yes.

5 MR. LALLY: The Commonwealth would seek to
6 introduce and admit as the next exhibits.

7 MR. YANNETTI: No objection.

8 BY MR. LALLY:

9 Q Mx. Vallier, if I could just place these
10 before you. If you could, if you could just take a
11 look at those while the stenographer is marking those.

12 (Whereupon, photographs were entered and marked
13 Exhibits No. 296 through 309 in Evidence.)

14 THE COURT REPORTER: Exhibits 296 through 309.

15 THE COURT: Thank you.

16 MR. LALLY: And, Your Honor, with the Court's
17 permission, may I publish what's now been marked as
18 Exhibits 296 through 309 for the jury?

19 THE COURT: Yes.

20 MR. LALLY: Ms. Gilman, if I could have
21 Photograph 1958.

22 BY MR. LALLY:

23 Q And, Mx. Vallier, again, what's up on the
24 screen, is that the evidence bag or box that contains
25 those items that you were just testifying about, 7-9

1 and 7-19?

2 A Yes.

3 MR. LALLY: Ms. Gilman, if I could have
4 Photograph 1962.

5 Q So, Mx. Vallier, now what's depicted up on the
6 screen and marked as Exhibit 297 --

7 MR. LALLY: Ms. Gilman, if you could zoom in
8 just a little bit on the items of evidence, please.

9 Q Now, contained within this are three clear
10 pieces of glass or plastic, if you know?

11 A I'd have to look at my notes to see what I
12 wrote.

13 MR. LALLY: Your Honor, with the Court's
14 permission, may the witness review her notes?

15 THE COURT: Yes.

16 Q After referring to your notes, what type of
17 material is that?

18 A Three pieces of apparent plastic.

19 MR. LALLY: Now, Ms. Gilman, if you could
20 scroll down just a little. Thank you very much.

21 Q The item that's contained above those three
22 pieces of apparent clear plastic, what is that?

23 A That is Item 7-19. That is a black straw.

24 MR. LALLY: And, Ms. Gilman, if I could have
25 Photograph 1964.

1 Q What's up on the screen, Mx. Vallier, now has
2 been marked as Exhibit 299. Is that essentially a straw
3 next to a ruler with its measurements; is that correct?

4 A Yes.

5 Q Now, with reference to the photographs that I
6 asked you to look at before, have you had a chance to
7 review those?

8 A I have.

9 Q And do you recognize what's contained within
10 those?

11 A I do.

12 Q And what do you recognize those to be?

13 A The photos I took of Item 7-11.

14 Q And what's contained in those photographs of
15 Item 7-11, is that a fair and accurate portrayal of
16 what you observed in your lab when you conducted your
17 analysis with reference to this case?

18 A It is.

19 MR. LALLY: Your Honor, the Commonwealth seeks
20 to introduce and admit as the next exhibits.

21 MR. YANNETTI: No objection.

22 THE COURT: Okay.

23 (Whereupon, photographs were entered and marked
24 Exhibits No. 310 through 324 in Evidence.)

25 THE COURT REPORTER: Exhibits 310 through 324.

1 MR. LALLY: And, Your Honor, with the Court's
2 permission, if I could publish --

3 THE COURT: Yes.

4 MR. LALLY: Thank you. Ms. Gilman, if I could
5 have Photograph 1979.

6 Q Again, Mx. Vallier, what's up on the screen,
7 is that the exact evidence bag that contains Item 7-11?

8 A Yes.

9 MR. LALLY: For the record, that's been marked
10 as Exhibit 310. Ms. Gilman, if I could have 1982.

11 Q And, again, Mx. Vallier, what's depicted up on
12 the screen on Exhibit 311, is that the items or the
13 pieces of plastic that were contained within the
14 aforementioned evidence bag as the previous exhibit,
15 Item 7-11?

16 A Yes.

17 Q Now, with regard to the photographs that I
18 have just placed before you before, have you had a
19 chance to review those, as well?

20 A I have.

21 Q And do you recognize what's contained within
22 those photographs?

23 A Photos of Item 7-14.

24 Q And what's contained in those photographs of
25 Item 7-14, is that a fair and accurate portrayal of

1 what you observed in your lab when you conducted your
2 examination in this case?

3 A It is.

4 MR. LALLY: Your Honor, the Commonwealth seeks
5 to introduce and admit as the next exhibit.

6 MR. YANNETTI: No objection.

7 (Whereupon, photographs were entered and marked
8 Exhibits 325 through 327 in Evidence.)

9 THE COURT REPORTER: Exhibits 325, 326, 327.

10 MR. LALLY: Ms. Gilman, if I could have
11 Photograph 2009.

12 Q Mx. Vallier, if I could draw your attention up
13 to the screen just for a moment to what's now been
14 marked as Exhibit 325. Do you recognize what that is?

15 A I do.

16 Q And that is the bag that contained Item 7-14;
17 is that correct?

18 A Yes.

19 MR. LALLY: And, Ms. Gilman, if I could have
20 Photograph 2012.

21 Q Again, Mx. Vallier, what's up on the screen,
22 is that the item that was contained and labeled as Item
23 7-14 --

24 THE COURT REPORTER: I'm sorry. I need
25 volume, please.

1 MR. LALLY: Sure.

2 BY MR. LALLY:

3 Q What's depicted on the screen, is that a fair
4 and accurate portrayal of what was contained in the
5 exhibit bag from the previous exhibits labeled as Item
6 7-14?

7 A Yes.

8 Q I'm sorry. Were you able to review both of
9 those photographs that I just placed before you?

10 A Yes.

11 Q And do you recognize those?

12 A Yes.

13 Q And what do you recognize those to be?

14 A The photos of Item 7-12.

15 MR. LALLY: If I could ask that those be
16 marked as the next exhibits, Your Honor.

17 MR. YANNETTI: No objection.

18 (Whereupon, photographs were entered and marked
19 Exhibits No. 328 through 331 in Evidence.)

20 (Whereupon, photographs were entered and marked
21 Exhibits No. 334 through 342 in Evidence.)

22 THE COURT REPORTER: Exhibits 328 through 342,
23 Your Honor.

24 ** Court Reporter's Note: The exhibit numbers
25 333 and 334 were inadvertently skipped over.)

1 MR. LALLY: Ms. Gilman, if I could have
2 Photograph 2015.

3 BY MR. LALLY:

4 Q Mx. Vallier, if I could direct your attention
5 up to the screen, what's contained in what's been
6 marked now as Exhibit 328, are those the evidence bag
7 that contained the items labeled as 7-12?

8 A Yes.

9 MR. LALLY: And, Ms. Gilman, if I could have
10 Photograph 2018.

11 Q Mx. Vallier, directing your attention up to
12 the screen and what's now been marked as Exhibit 329,
13 are those the items that were labeled collectively as
14 7-12 contained with that evidence bag with the prior
15 exhibit?

16 A Yes.

17 Q As far as those photographs that I presented
18 to you a moment ago, have you had a chance to review
19 those, as well?

20 A I have.

21 Q And do you recognize what's contained within
22 those photographs?

23 A I do.

24 Q And what do you recognize those to be?

25 A Photos of Item 7-13.

1 Q And what's contained within those photographs,
2 is that a fair and accurate portrayal of what was
3 contained or labeled as Item 7-13?

4 A It is.

5 MR. LALLY: Your Honor, the Commonwealth would
6 seek to introduce and admit as the next exhibit.

7 MR. YANNETTI: No objection.

8 (Whereupon, photographs were entered and marked
9 Exhibits No. 343 through 351 in Evidence.)

10 THE COURT REPORTER: Exhibits 343 through 351,
11 Your Honor.

12 MR. LALLY: Thank you very much.

13 Ms. Gilman, if I could have Photograph 1997.

14 Q Mx. Vallier, depicted on the screen in that
15 photograph which has now been marked as Exhibit 343, is
16 that the evidence bag that contained the items labeled
17 as 7-13?

18 A Yes.

19 MR. LALLY: And, Ms. Gilman, if I could have
20 Photograph 2000.

21 Q Mx. Vallier, directing your attention to the
22 screen, are those the items contained within that
23 exhibit bag on the prior exhibits that have been
24 collectively labeled by the lab as 7-13?

25 A Yes.

1 Q Now, as far as the photographs that I have
2 placed before you, have you had a chance to review
3 those?

4 A I have.

5 Q And do you recognize what is depicted in those
6 photographs?

7 A I do.

8 Q What do you recognize those to be?

9 A Photos of Item 7-15.

10 Q And what's contained in those photographs, is
11 that a fair and accurate portrayal of what's contained
12 in Item 7-15?

13 A It is.

14 MR. LALLY: Your Honor, the Commonwealth would
15 seek to introduce and admit as the next exhibit.

16 MR. YANNETTI: No objection.

17 (Whereupon, photographs were entered and marked
18 Exhibits No. 352 through 368 in Evidence.)

19 THE COURT REPORTER: Exhibits 352 through 368,
20 Your Honor.

21 THE COURT: Thank you. Mr. Lally, those are
22 the last exhibits we'll be doing today.

23 MR. LALLY: Okay. Ms. Gilman, if I could have
24 Photograph 2072.

25 BY MR. LALLY:

1 Q Mx. Vallier, if I could direct your attention
2 to the screen, do you recognize this as the evidence
3 bag that contains Item 7-15 that has now been marked as
4 Exhibit 352?

5 A I do.

6 MR. LALLY: Ms. Gilman, if I could have
7 Photograph 2077.

8 Q And, again, Mx. Vallier, what's up on the
9 screen, are those the items that were collectively
10 identified by the lab as 7-15 from that evidence bag
11 contained in the prior exhibit?

12 A Yes.

13 Q Now, Mx. Vallier, as far as your analysis was
14 concerned with regard to each of these items, and we'll
15 get to that in a little bit, I think, the next time,
16 but with regard to the labels that you assigned to them
17 as far as letters of the alphabet "A" through whatever
18 letter that you went, when you were conducting your
19 sort of physical match analysis, how was that shown on
20 a particular piece or did you label those pieces or how
21 were you able to sort of quantify that?

22 A The pieces that were large enough to, I
23 printed out labels from a label maker with the lab
24 number, the item number and then the letter that I
25 assigned it. So "A," "B," "C," and my initials. And

1 those are on the pieces.

2 Q And then as far as those pieces were
3 concerned, if you were able to find some consistency
4 between, say, Piece "A" and Piece "B" and you were able
5 to sort of fit them together, what, if anything, did
6 you do to memorialize that sort of physical match?

7 A Within the same item if there were two pieces
8 that fit together, I documented that with photos, wrote
9 down in my notes. And then if it was within the same
10 item, I held it together with tape and then repackaged
11 it still together as a single piece.

12 Q And, as far as the consistencies or the
13 matches that you were examining or looking for, was
14 that solely within piece to piece or at some point did
15 you also look at sort of a larger piece as far as a
16 housing unit for a taillight?

17 A For this case?

18 Q Yes.

19 A Yes.

20 Q And, with regard to the pieces that you had
21 sort of put together, what, if anything, were you able
22 to do with regard to some of those pieces and the
23 taillight housing, Item 3-1?

24 A From those items that we just saw, I was able
25 to piece one larger piece with many of those pieces all

1 fit together into one piece that I then called Piece 1.
2 There are some other pieces that also fit together
3 among those questioned ones that I called Piece 2,
4 Piece 3, Piece 4 and Piece 5. Piece 1 was a physical
5 match with Item 3-1, the taillight.

6 MR. LALLY: Your Honor, I think that may be
7 where I have to leave off.

8 THE COURT: All right. Mx. Vallier, we are
9 going to have to have you back on Wednesday. Okay?
10 I am going to ask you to wait for the jurors. So
11 we don't meet tomorrow. We will meet Wednesday,
12 and we will go a full day Wednesday with an
13 abbreviated lunch and end sometime between 4:00 and
14 4:30.

15 So please do not discuss this case with
16 anyone. Don't do any independent research or
17 investigation into the case. If you happen to see,
18 hear or read anything about the case, please
19 disregard it. I know we took a long time today
20 with getting exhibits in before you, but it's a
21 very important part of the case and it does just
22 take some time. So we appreciate your patience.

23 All right. We will see you on Wednesday.

24 (Whereupon, the jury is escorted from the courtroom
25 and excused until Wednesday morning.)

1 THE COURT: All right. You don't need me for
2 anything until Wednesday? We'll see you on
3 Wednesday.

4 MS. LITTLE: Your Honor, if we may approach, I
5 have a redacted exhibit.

6 THE COURT: Jimmy, do you have all of the
7 identifications?

8 MS. LITTLE: "SS."

9 THE COURT: Are you the only one from your
10 team coming up here?

11 MS. LITTLE: It's fine if the Court's okay
12 with that.

13 THE COURT: So why don't you take some time
14 with it and we can address this on Wednesday
15 morning.

16 MS. LITTLE: Okay.

17 THE COURT: Okay? So you don't have to do it
18 on the fly. And make me a copy, if you would, too.

19 MS. LITTLE: Sure. You can keep that. I just
20 made the redactions that we had discussed at
21 sidebar.

22 THE COURT: So we'll see you on Wednesday.
23 (Whereupon, the Court adjourned at 4:00 p.m.)
24
25

C E R T I F I C A T E

I, Paula M. Mills, retired certified court reporter, do hereby certify that the foregoing pages, page 25-5 to 25-279, is a true and accurate transcription of the voice recording in the aforementioned matter to the best of my skill and ability.

This, the 12th day of February, 2025.

\s\ Paula M. Mills

Paula M. Mills

Retired Certified Court Reporter
and Court Transcriptionist